

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
COUNTY OF MCLEAN

JAMES SNOW,

*Petitioner-Defendant,*

-vs-

PEOPLE OF THE STATE OF ILLINOIS,

*Respondent-Plaintiff.*

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No. 99 CF 1016

Hon. Ramon M. Escapa  
Judge Presiding.

MCLEAN

FILED

AUG 03 2021

CIRCUIT CLERK

COUNTY

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**MOTION FOR DISCOVERY**

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NOW COMES Petitioner, JAMES SNOW, by and through his attorneys, THE EXONERATION PROJECT at the University of Chicago Law School, and hereby respectfully requests that this Honorable Court grant Petitioner's request for discovery in the above-captioned matter. In support of this motion, Petitioner states as follows:

**Introduction**

1. James Snow was wrongly convicted in the 1991 shooting murder of Bill Little at a gas station in Bloomington, Illinois.
2. Mr. Snow was convicted largely on the basis of alleged informants, most of whom have since recanted.
3. No physical evidence ever tied Mr. Snow to the crime, and purported eyewitnesses have been discredited.
4. Mr. Snow has continuously asserted his innocence and sought to identify the true perpetrator(s) of this crime.

5. To that end, Mr. Snow has sought forensic testing of crime scene evidence. In response to a subpoena related to forensic evidence, the Bloomington Police Department tendered over 8000 pages of documents to the Court.

6. Through *in camera* review by the parties in this matter, it was discovered that many of these documents were heretofore unknown and unseen by Petitioner's post-conviction counsel.

7. As these documents are materials to which Petitioner is entitled under discovery rules, Petitioner requests that they be tendered in full.

### **Relevant Background**

8. On April 2, 2007, Judge Bernardi ordered the State to turn over discovery to Petitioner, who was then representing himself *pro se*, recognizing that such discovery was obligated regardless of the status of the case. Exhibit A, Transcript of April 2, 2007, pp. 7-9, 19. Notably, the State conceded during those proceedings that it could not deny discovery to the defense, explaining, "Our initial response is usually to get it from the counsel we gave it to before. But I think in this case that's going to be very difficult," as Mr. Snow's trial attorneys were then deceased and in prison, respectively. *Id.* at 8.

9. At the time, Petitioner received under 900 pages of documents and about 30 tapes from the State.

10. On April 28, 2008, The Exoneration Project filed an appearance in this matter.

11. At that time, Petitioner's counsel attempted to obtain prior discovery from Petitioner's living trial counsel. Unfortunately, trial counsel was then serving a prison sentence and related that he no longer had the file.

12. On March 28, 2016, Judge Butler ordered a subpoena to the Illinois State Police (“ISP”) and Bloomington Police Department (“BPD”) for documents related to forensic evidence in this matter. Exhibit B, Subpoena Order.

13. In response, the Bloomington Police Department disclosed over 8000 pages of documents to the Court for an *in camera* inspection.

14. During a telephonic status, the Court directed Petitioner to review the disclosures and determine what was responsive to the subpoena. The Court tendered possession of the subpoenaed materials to the State with the directive that the materials only be viewed by attorneys and not discussed with others, including Mr. Snow. Petitioner reviewed the materials as promptly as possible over numerous sessions in the offices of the McLean County State’s Attorney. These materials were never in Mr. Snow’s possession.

15. Through that review, Petitioner’s counsel determined that much of those 8000 pages were previously unknown to Petitioner’s post-conviction counsel.

16. Due to Judge Butler’s order that these materials only be viewed by attorneys and not discussed with others, Petitioner’s counsel is unable to list the specific documents absent further order of this Honorable Court.<sup>1</sup>

17. However, generally speaking, these previously unseen documents include: 1) information related to previously unknown witnesses; 2) memoranda related to specific witnesses; 3) a profile of the killer; 4) information related to other robberies that were potentially connected

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<sup>1</sup> Neither the undersigned counsel nor the attorney currently representing the State were present for this status (both representatives at the time have since left their respective organizations), and counsel is unaware of any written order documenting these restrictions. However, undersigned counsel has conferred with her former colleague who then represented Petitioner and was advised of the scope of the order and that the Court’s prior direction prevented the undersigned from detailing the contents of these materials in a pleading. Should this Court require further detail, Petitioner’s counsel will comply with such Order.

to this crime; 5) information regarding alternate suspects; 6) numerous LEADS sheets; 7) references to unknown lineups and photo arrays; 8) confessions by others to this crime; 9) unidentified witnesses; 10) tips to the police about different perpetrators; 11) accusations that others were responsible; 12) identifications of others; 13) nonidentifications of Mr. Snow; 14) grand jury transcripts; 15) references to a “picture file;” 16) recordings of interviews; 17) a list of tapes, some of which Petitioner does not have; and 18) documents that directly contradicted or impeached witnesses who testified against Mr. Snow at trial.

18. Additionally, Petitioner and his supporters have submitted numerous Freedom of Information Act requests throughout the years. The responsive documents numbered below 8000 pages and were heavily redacted, including redactions of any identifying or descriptive information related to witnesses in this case and hundreds of pages that were completely blacked out.

### **State’s Duty to Disclose**

19. To be clear, Mr. Snow does not seek any additional discovery at this time. Rather, he seeks the discovery that he is entitled to per Illinois Supreme Court Rule 412.

20. Indeed, this is discovery that typically would be disclosed pretrial. *See* Ill. Sup. Ct. R. 412. Unfortunately, Petitioner cannot access the materials that were disclosed pretrial because they have been destroyed, per his trial lawyer. Thus, the only avenue to obtain these discovery materials is through the State.<sup>2</sup> In fact, the State itself acknowledged this in a 2007 discovery discussion on the record. Ex. A at p. 8.

21. Moreover, the State has a continuing duty to disclose “additional material or information which is subject to disclosure.” Ill. Sup. Ct. R. 415(b). To the extent there are additional materials in the BPD disclosures that the State did not have access to previously, those

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<sup>2</sup> As detailed above, FOIA requests have been heavily redacted and incomplete.

documents should be disclosed to Petitioner immediately under these continuing discovery obligations.

22. Importantly, the State was previously ordered to tender Petitioner discovery during post-conviction proceedings. Petitioner simply requests that that discovery obligation be completed given the significant materials produced by BPD.

23. Notably, with the exception of the tapes, the materials in question were already provided to the Court in response to a previous subpoena, thereby making this a uniquely nonburdensome request.

**This Request Is Supported by Case Law**

24. Though this is not a new discovery request, this request is also supported by post-conviction discovery case law.

25. Indeed, this Court has the inherent discretion to grant discovery in post-conviction matters. *See People v. Johnson*, 205 Ill.2d 381, 408 (2002); *People v. Jakes*, 2013 IL App (1st) 113057, ¶ 24; *People ex. rel. Daley v. Fitzgerald*, 123 Ill.2d 175, 183-83 (1988). In granting post-conviction discovery, courts are to consider whether Petitioner has shown good cause for the discovery request under the “totality of the relevant circumstances.” *Jakes*, 2013 IL App (1st) 113057, ¶ 24; *see also People v. Smith*, 352 Ill. App. 3d 1095, 1113 (2004), *Johnson*, 205 Ill.2d at 408, *People ex. rel. Daley v. Fitzgerald*, 123 Ill.2d 175, 183-83 (1988).

26. Here, Petitioner has good cause as the request is limited in scope, non-burdensome, and cannot be obtained through other sources. *See People v. Lucas*, 203, Ill. 2d 410, 429 (2002) (courts may consider these factors in considering a post-conviction discovery request); *see also Jakes*, 2013 IL App (1st) 113057, ¶ 24, *Johnson*, 205 Ill.2d at 408. Indeed, these are records the Court already held the Petitioner is entitled to but that he has been unable to obtain through other

means. Further, this request places very little burden on the State or BPD as these are materials that have already been tendered to the Court, with the exception of the tapes. *See supra*. The records will provide necessary information for Petitioner to fully investigate this matter and present Petitioner's post-conviction claims to this Court.

27. Moreover, the Court "should permit discovery of materials including 'not only what is admissible at the trial, but also that which leads to what is admissible.'" *Jakes*, 2013 IL App (1st) 113057, ¶ 30 (quoting *People v. Kladis*, 2011 IL 110920, ¶ 26 (internal quotations omitted)). Discovery should be used to "enhance the truth-seeking process, to enable attorneys to better prepare for trial, to eliminate surprise and to promote an expeditious and final determination of controversies in accordance with the substantive rights of the parties." *Jakes*, 2013 IL App (1st) 113057, ¶ 30 (quoting *Kladis*, 2011 IL 110920, ¶ 27). Mr. Snow continues to seek the truth with this motion, as he has for decades, and has the right to these materials compiled in the case against him.

28. In order to adequately investigate and present any claims for post-conviction relief that Mr. Snow might have, Mr. Snow must have access to the evidence used against him in the above-captioned matter.

29. Further, this information is critical to the Court's inquiry in the pending DNA matter, where the Court must determine if "the result of the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence when the defendant's conviction was the result of a trial, even though the results may not completely exonerate the defendant." The State's briefings in opposition to the testing have focused in part on the purported strength of the State's evidence against Mr. Snow. The materials

discovered in BPD's disclosure contains significant information that calls the strength of the evidence—and the conviction itself—into question.

**Conclusion**

30. Mr. Snow seeks materials to which he is entitled under Illinois Supreme Court discovery rules.

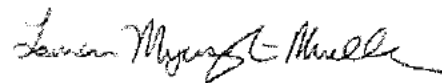
31. These materials include significant information related to the underlying investigation and conviction of Mr. Snow that could have an impact on the pending DNA motion and future motions.

32. Mr. Snow has good cause for this request as he is unable to obtain these materials through any other means, the request is nonburdensome as the materials have already been produced by BPD, and a Court previously ordered the discovery.

33. As this request is supported by Illinois Supreme Court Rule 412 and 415 and relevant case law, this Court should grant Petitioner's motion for discovery already tendered to the Court.

WHEREFORE, Petitioner respectfully requests that this Court grant Petitioner's request for discovery already tendered to the Court in this matter.


DATED: July 30, 2021



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Attorney for Petitioner

Lauren Myerscough-Mueller  
The Exoneration Project  
311 North Aberdeen, 3rd Floor  
Chicago, Illinois 60607



**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
COUNTY OF MCLEAN**

JAMES SNOW,	)	
	)	
<i>Petitioner-Defendant,</i>	)	
-vs-	)	No. 99 CF 1016
	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	Hon. Ramon M. Escapa
	)	Judge Presiding.
<i>Respondent-Plaintiff.</i>	)	

**NOTICE OF FILING**

TO: Bradly Rigdon  
Assistant State's Attorney  
Office of the McLean County State's Attorney  
104 W. Front St., Rm 605  
Bloomington, Illinois 61701

Please take notice that on July 31, 2021, I caused to be mailed for filing with the Clerk of the Circuit Court of McLean County, 104 W. Front St., Rm 303/404, the original of the attached Motion for Discovery, a copy of which is hereby served upon you.



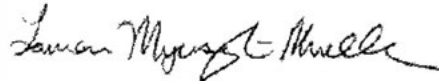
\_\_\_\_\_  
Attorney for Petitioner

Lauren Myerscough-Mueller  
The Exoneration Project  
311 North Aberdeen, 3rd Floor  
Chicago, Illinois 60607



**Certificate of Service**

I hereby certify that on this 30th day of July, 2021, I caused a copy of the attached **Motion for Discovery** and **Notice of Filing** to be served via email upon the McLean County State's Attorney's Office.



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Lauren Myerscough-Mueller  
Attorney for Petitioner



EXHIBIT  
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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

PEOPLE OF THE )  
STATE OF ILLINOIS )  
 )  
Plaintiff, )  
 )  
vs. )  
 ) NO. 99 CF 1016  
JAMES CHRISTOPHER SNOW, )  
 )  
Defendant. )

**STATUS HEARING**

REPORT OF PROCEEDINGS of the hearing before the  
Honorable DONALD D. BERNARDI on the **2nd day of April, 2007.**

APPEARANCES:

MR. WILLIAM WORKMAN,  
Assistant State's Attorney for McLean County,  
for the People of the State of Illinois;  
  
MR. W. KEITH DAVIS,  
Attorney at Law,  
for the Defendant;  
  
Defendant also present.

Nancy L. McClarty, CSR, CP-RPR  
CSR License No. 084-002264  
Official Court Reporter  
McLean County, IL

1 THE COURT: We will go on the record, 99 CF 1016,  
2 the People versus James Snow. People are appearing by  
3 Mr. Workman. Mr. Snow and Mr. Davis.

4 This was set for a status today on the issue of  
5 counsel. And I think last time, Mr. Snow, you were going to  
6 try to get your sister to appear today. And did you have any  
7 luck?

8 THE DEFENDANT: The last month or so I've had  
9 limited contact with her. She's been out of state, and I  
10 guess they started a new crew from what type of work that she  
11 does, and she's been working, you know, 16 hours a day, seven  
12 days a week, and it's just been really busy for her.

13 THE COURT: So do you know anything more about  
14 possibility of counsel then?

15 THE DEFENDANT: No, I mean I know she's trying,  
16 but, you know, I mean she -- it could happen tomorrow. It  
17 could be, you know --

18 THE COURT: Well, I indicated on my notes here that  
19 I wanted you, if you didn't have a decision on counsel, to at  
20 least elect how you wanted to proceed. And what I mean by  
21 that is we would today set a hearing on the State's -- we've  
22 got a dispositive motion, do we not yet?

23 MR. WORKMAN: Not yet.

24 THE COURT: Oh, we don't?

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MR. WORKMAN: We're still waiting --

THE COURT: Whether you're going to amend it?

MR. WORKMAN: (Nods.)

THE COURT: I'm sorry. I'm getting this mixed up with the two other cases I've got. So the State would then have to respond, Mr. Snow. You have to tell me if you want to go pro se or with Mr. Davis. That timeline is such that the State's going to have not only time to respond, but you or Mr. Davis will have to respond. So I couldn't set something for hearing for about 90 days.

Now obviously if you get counsel between now and then, that will change. Counsel would enter their appearance, either ask for time to amend your petition, say that they're going to stand on the petition, whatever it may be, whatever you and counsel agree to. But I just -- I don't want to continue it anymore only to determine that issue. So if you tell me today I want to keep Mr. Davis, I'll set these deadline dates. If you say I want to proceed pro se, I'll set the deadline dates as well, make the State respond to your existing petition or give you time to amend it if that's what you want to do, then their response and then set a hearing. So I just need to hear from you as to how you want to proceed.

THE DEFENDANT: If I elect to proceed pro se,

1 right.

2 THE COURT: Yes.

3 THE DEFENDANT: What you're saying is you -- then,  
4 you know I really don't want to but I mean like I've  
5 already -- we've already gone through this. I feel like I  
6 don't have a choice at this point.

7 THE COURT: Yes, I understand that. I mean you  
8 have a disagreement with counsel over the issues that you  
9 want to raise. You believe they ought to be raised, and he  
10 doesn't think they have merit. That can happen in any case.  
11 When that does happen, one person gets to win, because I  
12 don't hear both, as you know. So if you want to plead  
13 matters that you can't convince Mr. Davis to plead, then I  
14 would allow his motion to withdraw; and I would only do that  
15 because I think you're capable of doing it. You're not  
16 somebody who has no education and is incapable of pleading  
17 the issues and understanding it. You may not necessarily  
18 agree with all the rulings. You may not always cite the  
19 right cases, but I think you have an ability to do it on your  
20 own.

21 I wouldn't even be suggesting this if I didn't  
22 think that's the case, and I think the record demonstrates  
23 that. You're smart enough to know that you'd rather have  
24 counsel, so that tells me something there. I'm not worried

1 about you doing it on your own, but in order to preserve  
2 those issues that Mr. Davis does not want to present because  
3 he doesn't think they have merit, you'd be proceeding pro se.  
4 If you proceed pro se, I'm going to give you time to give us  
5 a final amended petition, and you would put together those  
6 things that you want to plead in your postconviction  
7 petition. I'll give the State then time to respond and then  
8 we'll just have a hearing date.

9 If during that time period, whether you keep  
10 Mr. Davis or not, your sister can employ counsel, I'll hear  
11 whatever motion you and your lawyer have if you get a new  
12 attorney. Obviously if you're pro se, the new attorney just  
13 enters his or her appearance. If Mr. Davis is in, I've got  
14 to hear his motion to withdraw.

15 THE DEFENDANT: If I proceed pro se, you're going  
16 to allow me time to file my own amended petition?

17 THE COURT: Yes, because -- well, the State needs  
18 to have it and I need to have -- what we've got is this is  
19 done piecemeal, as you know. You need to put together a  
20 petition, the one that you want to be heard if you're going  
21 to represent yourself, and then I'll give the State time to  
22 respond and then we'll get a hearing date. Like I said, if  
23 at anytime during that process a lawyer is secured, then  
24 you -- you're pro se, so you can let the lawyer come in and

1 argue your case. You will have all of your issues pled that  
2 way. The only thing I don't want to do is have you change  
3 your mind in the middle and take back -- want Mr. Davis back,  
4 because that's just going to end up delaying things. So if  
5 you know today what you want to do in that direction, I will  
6 give you some deadline dates.

7 THE DEFENDANT: Well, that -- I guess I really  
8 don't have a choice.

9 THE COURT: Well, you do -- you understand you have  
10 a choice. You don't --

11 THE DEFENDANT: Well --

12 THE COURT: You don't think you have a choice when  
13 you can't convince counsel to plead what you want.

14 THE DEFENDANT: Right.

15 THE COURT: As long as the record reflects that  
16 that's what you mean by no choice. I think you're right. In  
17 your position in your mind you don't have a choice, is the  
18 right way to say it, correct?

19 THE DEFENDANT: Correct.

20 THE COURT: All right. You want -- I don't want to  
21 put words in your mouth. Do you want me to allow his motion  
22 to withdraw and let you proceed pro.se?

23 THE DEFENDANT: Yes.

24 THE COURT: All right.

1           THE DEFENDANT: Your Honor, though, if I'm going to  
2 proceed pro se, there is some things that I need in order to  
3 do it on my own.

4           THE COURT: Okay. And what don't you have that you  
5 need?

6           THE DEFENDANT: Well, I need a complete copy of the  
7 discovery materials that were given to my trial lawyers. As  
8 I said before, they never did provide me with a complete copy  
9 of my discovery. Pat Riley -- according to Pat Riley, he  
10 gave me those portions of the discovery that he felt was  
11 important and it -- you know, after being, you know,  
12 convicted and sentenced, you know, I start getting stuff from  
13 my codefendant that she had gotten from her lawyer that I  
14 didn't have. That's some of the -- some of the stuff that I  
15 have put into the amended petition or not the amended  
16 petition but my original petition deals with some of the  
17 stuff that I didn't have. So I don't know what all is in the  
18 discovery, but I would need it.

19           THE COURT: I'm not sure, Mr. Davis, if I'm correct  
20 on this or not, but do you actually have a discovery packet?

21           MR. DAVIS: No, I have a trial transcript and  
22 copies of the common law record and all the pleadings and  
23 motions contained therein. But I do not have a copy of the  
24 entire discovery record. I have excerpts from it, which



1 Mr. Snow attached to his original pro se petition. But I  
2 don't have a copy of the original trial discovery.

3 THE COURT: You know, Mr. Snow isn't even entitled  
4 to that before trial. I mean only counsel was, although he  
5 can get it by way of the court. But he isn't automatically  
6 entitled to discovery before trial, but that's when he's got  
7 a lawyer. If he's going pro se, I don't know, Mr. Workman,  
8 unless you think of a reason otherwise, I think that does  
9 change -- I mean if Mr. -- here is the way I look at it.

10 If Mr. Davis wanted the discovery in order to  
11 prepare his petition, I take it that you'd have to give it to  
12 him. I don't know how you could deny it to Mr. Davis. Would  
13 I be right?

14 MR. WORKMAN: I believe you're right, Your Honor.  
15 Our initial response is usually to get it from the counsel we  
16 gave it to before. But I think in this case that's going to  
17 be very difficult.

18 MR. DAVIS: Mr. Riley is dead.

19 THE COURT: Mr. Riley is deceased.

20 MR. DAVIS: I believe Mr. Picl is in prison  
21 actually.

22 THE COURT: Mr. Picl is certainly available. I  
23 think you can make an argument either Mr. Davis or Mr. Snow.

24 MR. WORKMAN: My argument would be it would have to

1 be upon the record itself.

2 THE COURT: And I think there is an argument to be  
3 made that it's record only that is subject to attack on  
4 postconviction, but I probably would allow Mr. Davis to see a  
5 discovery packet. So if you got that, Mr. Snow, I take it  
6 then you'd be in a position to firm up a petition?

7 THE DEFENDANT: Well, yeah, that's one of the  
8 things I would need. And I would need the assistance of an  
9 investigator.

10 THE COURT: Well --

11 THE DEFENDANT: And I say that because, you  
12 know -- you know I need an investigator to go talk to Frank  
13 Picl for one. The fact that he's now in prison and he's  
14 claiming that it was his alcoholism and his mental illness  
15 and all -- that's a prior undisclosed evil of addiction that  
16 I don't think anybody in here knew about it. I sure didn't  
17 know about it. That's one of the things I would need him to  
18 do is talk to Frank because who is to say what he's going to  
19 say now.

20 THE COURT: Yeah, but if you don't know today the  
21 connection between your suggestion that there may have been  
22 an addiction and the trial, you're not going to find it out  
23 by talking to him because the trial record demonstrates  
24 whether or not there was a Strickland issue, an issue

1 regarding conduct that was ineffective. See that's where you  
2 and the case law and Mr. Davis part ways. You are looking at  
3 it as a situation where you really can relitigate, meaning I  
4 can go out and look for witnesses, I can try to get contrary  
5 affidavits of existing people who testified and I can attack  
6 this as if the question is whether we had a perfect trial or  
7 a real good trial or whatever you want to call it, and that's  
8 really not what you do in postconviction.

9 In postconviction, the trial is done. It's on  
10 paper, and the question is whether or not there are  
11 constitutional errors that are reflected in that record. So  
12 for you to say, well, I don't know if my lawyer was  
13 incompetent or not because I don't know if he was addicted to  
14 alcohol when the case was tried is not persuasive because  
15 it's his performance at trial that demonstrates that. The  
16 only way that I would decide that issue is to view his  
17 performance at trial. The only way the Appellate Court would  
18 decide it is to look at the record of his performance. You  
19 could come in and establish that he was an alcoholic at the  
20 time of the trial. That doesn't mean he can't competently  
21 try the case. As annoying as that is for you to hear that,  
22 that happens to be the truth. A diagnosis in the middle of  
23 the trial by some doctor of alcoholism for one of your  
24 lawyers does not mean you and everybody else who that lawyer

1 represented gets new trials.

2 THE DEFENDANT: I know that.

3 THE COURT: So that's why I say that investigating  
4 is the area of attack that you maybe have had a disagreement  
5 with Mr. Davis about. I don't know. It really causes me to  
6 pause because I would not allow an investigator to just talk  
7 to the lawyer to find out if he was an alcoholic at the time  
8 of the trial because then I would plead he's an alcoholic so  
9 he was ineffective so I should get a new trial. I mean the  
10 answer to that is no already.

11 I know that that would not -- that's not how I  
12 would judge whether you got a new trial. I would judge  
13 ineffectiveness by the allegations, some of which you've  
14 made, as to what he did at trial, but not whether, for  
15 example, he was addicted to alcohol.

16 THE DEFENDANT: How about -- how about how he  
17 prepared for trial?

18 THE COURT: Well, that doesn't make any difference  
19 either, because some lawyers have far higher skill levels  
20 than others, can cross-examine witnesses with very little  
21 preparation. Other lawyers need a week to prepare to  
22 cross-examine. You decide by what happened at trial whether  
23 that was effective or not is what I'm trying to say. So, you  
24 know, you're thinking about it as a retrial, and I think I've

1 said this before, and it just isn't a retrial, but I don't  
2 think -- I'm not going to tell you that I would never permit  
3 an investigator to be used.

4 If you get discovery material, that's going to  
5 prompt you probably to come up with more ideas for  
6 investigators. My inclination is that they're not -- I have  
7 never had an investigator, appointed an investigator in any  
8 PC I've had, and I've had probably about a dozen of them.  
9 But I know some cases where people have hired them. Don't  
10 get me wrong. But that doesn't mean that they ended  
11 up -- Beaman is one of them. That doesn't mean they ended up  
12 bearing in any way on the postconviction petition, but they  
13 do tend to satisfy the defendant and the lawyers who want to  
14 check some things out. And so that's the only other case I  
15 can think of, but that was privately retained.

16 THE DEFENDANT: That's not the only thing I need  
17 him for. I mean I have a letter here from one of the State's  
18 witnesses that I received over two years ago. You know, I  
19 really don't want to show it to the State if I don't have to,  
20 but, you know, if you want to read it, you'll understand what  
21 I'm talking about, why I need the investigator.

22 THE COURT: Well, if he makes claims that you think  
23 indicate that there is perjury, for example, then you get  
24 affidavits from those people.

1 THE DEFENDANT: It's not a perjury issue. You can  
2 read it. Do you want to read it?

3 THE COURT: This is not let's see if Judge Bernardi  
4 can figure out where I'm going with this. You have to decide  
5 what you want to plead in your petition.

6 THE DEFENDANT: So you're saying I can plead this  
7 issue that's contained in this letter right here from one of  
8 the State's witnesses not perjuring testimony?

9 THE COURT: You can plead -- you're not going to  
10 have a restriction on what you plead now because you're going  
11 to do this pro se. So you can plead whatever you think needs  
12 to be in the petition. I'm not going to allow an  
13 investigator right now because I've already told you I don't  
14 think interviewing Frank Picl is going to relate to any of  
15 the issues. Believe me if we -- if the State is  
16 unsuccessful -- you get your petition on file, we get you  
17 discovery and they're unsuccessful in getting it dismissed,  
18 then we're having an evidentiary hearing; and I will hear  
19 from you again whether you think you need an investigator at  
20 that stage. But we're not there yet.

21 MR. DAVIS: Your Honor, may I intercede?

22 THE COURT: Yes.

23 MR. DAVIS: Am I withdrawn at this point because I  
24 have another case?

1 THE COURT: You have another hearing to go to?  
2 Mr. Snow, is that your decision that you want to go  
3 ahead and let him be discharged today?  
4 THE DEFENDANT: Yeah.  
5 THE COURT: So can you proceed pro se?  
6 THE DEFENDANT: Yes, sir.  
7 THE COURT: I'll go ahead and allow your motion.  
8 MR. DAVIS: I'll submit a written order, Judge.  
9 THE COURT: Yes. And Mr. Workman you don't object  
10 I take it?  
11 MR. WORKMAN: No, Your Honor.  
12 MR. DAVIS: Thank you, Judge.  
13 THE COURT: All right. So, the next step would be  
14 a motion to dismiss where they would attack the legal  
15 sufficiency of your petition. If that's unsuccessful, then  
16 it's an evidentiary hearing. So the stage where an  
17 investigator, if at all, would be needed is that third stage  
18 in the process. You're in stage number two.  
19 THE DEFENDANT: Right.  
20 THE COURT: So --  
21 THE DEFENDANT: I know. I understand that.  
22 THE COURT: All right. I would suggest this.  
23 THE DEFENDANT: I just hate that -- I hate to raise  
24 this issue, right, that I am going to raise it, and if you

1 read it, you would see that it is -- it's a constitutional  
2 violation and I've just -- I've just -- it has nothing to do  
3 with perjured testimony. But it is a violation. I've read  
4 some case law and some recent case law that this issue alone  
5 if it's proven to be true would be -- would be grounds for  
6 reversal and a remand. Now, I hate to plead it and give the  
7 State the opportunity before I have the opportunity to nail  
8 it down by affidavit or, you know, supporting evidence to  
9 give them the opportunity to do it before I get a chance to.  
10 But, you know, if you're saying I have no choice but to do  
11 that, I have no choice.

12 THE COURT: You wouldn't be able to do that in a  
13 regular trial. You'd have to give it to them in discovery  
14 anyway. I mean the same rules are going to apply on that.  
15 They get to respond to your petition.

16 THE DEFENDANT: Sure they do. I understand that.  
17 They get to respond to it. But I mean I could have, if I had  
18 the money, I could send an investigator to go investigate  
19 this right now.

20 THE COURT: But you couldn't -- but you couldn't  
21 plead it without having the supporting documents. If  
22 you -- I'm sure you've read the postconviction act. You  
23 know, you've got to support your petition.

24 THE DEFENDANT: That's what I'm trying to do.



1 That's why I'm trying to get the supporting document.

2 THE COURT: No, it doesn't mean documentation.  
3 Affidavits are adequate.

4 THE DEFENDANT: Or the affidavit supporting, you  
5 know --

6 THE COURT: Well, if you get that person to sign an  
7 affidavit, you've raised your issue. If they can't get rid  
8 of it by a motion to dismiss legally, then it goes to the  
9 third stage.

10 THE DEFENDANT: How do I get the affidavit from  
11 them?

12 THE COURT: Well, you have to contact the person  
13 and have them sign an affidavit that what is in there is true  
14 and correct under penalty of perjury.

15 THE DEFENDANT: That's the problem. That's the  
16 problem I was having with Keith Davis. He wouldn't do it.

17 THE COURT: Keith doesn't do it.

18 THE DEFENDANT: Well, he had his investigator. He  
19 had an investigator.

20 THE COURT: You have to send a letter to that  
21 person and give them the form of the affidavit that's got the  
22 perjury penalty, and he needs to take it to a notary and you  
23 can attach it to your petition.

24 THE DEFENDANT: I -- that would be -- that would be

1 a great thing to do, but, you know it's kind of hard to get  
2 that done from where I'm at.

3 THE COURT: I know that.

4 THE DEFENDANT: That's why I gave Keith this letter  
5 two years ago.

6 THE COURT: He -- you know, just --

7 THE DEFENDANT: He refused.

8 THE COURT: He didn't refuse. He doesn't think  
9 it's got merit, unfortunately, and I know you disagree with  
10 him on that. He doesn't think it has merit. Have you talked  
11 to your sister about just hiring you an investigator?

12 THE DEFENDANT: Yeah, we've done all that.

13 THE COURT: All right.

14 THE DEFENDANT: We've talked about that, too.

15 THE COURT: All right. Because that's another  
16 possibility if you can't afford counsel because if you just  
17 want somebody to do some leg work for you, I mean that's a  
18 possibility as well. I'm simply telling you that at this  
19 stage, I don't think an investigator is appropriate. You'll  
20 need to plead what you can, attach what you can to the  
21 petition to support it, let the State file their motion, and  
22 if there are any legal grounds to dismiss or strike  
23 allegations, we'll deal with that. If it survives to a third  
24 stage, I'll reconsider the investigator issue.

1 THE DEFENDANT: So if I'm unable to get an  
2 affidavit from this guy, I can still raise this issue.

3 THE COURT: Yes, you can, but --

4 THE DEFENDANT: I mean --

5 THE COURT: I don't know what the response is going  
6 to be either.

7 THE DEFENDANT: The response is going to be that I  
8 don't have any supporting affidavits or anything to support  
9 it, but I mean I still got to get it on there because  
10 it's -- I mean I'll raise it and you'll see what I mean.

11 THE COURT: Just so you know, everybody is in your  
12 spot in the penitentiary, and they're getting their cases  
13 dismissed at the first stage.

14 THE DEFENDANT: I know.

15 THE COURT: Which didn't happen to you for the same  
16 reason for not attaching affidavits with them saying the same  
17 thing to their counselors at the prison, the Judge never  
18 hears it because there is no hearing. How am I supposed to  
19 do it? I can't get ahold -- or you're telling your wife or  
20 your parents. I can't get ahold of these people. That's the  
21 nature of this act, because it's all true.

22 THE DEFENDANT: I know.

23 THE COURT: If you look at it in this way, it does  
24 make it tough on you. So you either accept the lawyer who

1 has got the ability to do these things, convince them and  
2 live with what you tell them to do or live with them not  
3 doing it and try it on your own, and it is difficult on your  
4 own.

5 THE DEFENDANT: I can't live with just, you know,  
6 not raising it.

7 THE COURT: I understand that. So what I'm going  
8 to do is I have to ask Mr. Workman, how much time will it  
9 take for him to put a discovery packet together.

10 MR. WORKMAN: I would probably ask for 30 days,  
11 Your Honor, because we've got several boxes in my office of  
12 this case. One thing I would probably look at, though, is  
13 this case was back in 1999. They used to file the discovery,  
14 including all the reports, here in McLean County. It may be  
15 in the clerk'S office.

16 THE COURT: I think that was -- that was stopped  
17 before this.

18 MR. WORKMAN: Was that stopped before this?

19 THE COURT: Yes, I remember there was a time when  
20 everything went in the court file, and they quit that.

21 MR. WORKMAN: That's what I was going to look at.  
22 Otherwise, I'm going to have to put it together.

23 THE COURT: I think you need to probably piece it  
24 together.

1 MR. WORKMAN: I would ask for at least 30 days to  
2 do that.

3 THE COURT: All right. Then State to provide  
4 discovery.

5 THE DEFENDANT: It will take me a while.

6 THE COURT: I'm presuming it will -- within  
7 30 days.

8 THE DEFENDANT: I have a limited access to the law  
9 library. I mean we get over there --

10 THE COURT: What if I gave you 90 to get your  
11 petition together after you get your discovery.

12 THE DEFENDANT: I will. I'm sure I can get it.

13 THE COURT: Ninety days thereafter.

14 THE DEFENDANT: Now if I have anything that I want  
15 to file as far as motions or anything like that, I can file  
16 those now, right?

17 THE COURT: No. Now remember, we're not filing  
18 motions now. We need to get -- the procedure is simple. You  
19 need to put together a final petition, unhindered by  
20 Mr. Davis, of the issues that you want to plead, and there  
21 are no motions.

22 THE DEFENDANT: I can't seek leave of the court to  
23 file a subpoena for any type of records or anything like  
24 that?

1 THE COURT: No, we're not at that stage yet.

2 THE DEFENDANT: Okay.

3 THE COURT: That's third stage, because they get a  
4 chance -- there are two chances in the procedure, as you  
5 know. The first one where I can get rid of it as frivolous  
6 or patently without merit, you don't get to file any motions  
7 then. I just look at it, and I dismiss it if it's bad.  
8 Second stage is the same way. They get to respond to your  
9 petition.

10 THE DEFENDANT: Right.

11 THE COURT: You don't get to start discovery. You  
12 don't get to do that kind of business. If it doesn't go away  
13 on the second, then there may be some things that you may  
14 want to file that will have merit, including an investigator,  
15 but we're not there yet. So now we're at the legal stage  
16 where you need to get your petition together. I'll give you  
17 90 days to do that. The only motion you can file is, I can't  
18 get it done in 90, Judge; give me some more time. If you run  
19 into that headache, I'll get ahold of Mr. Workman. If he  
20 objects, we'll have a hearing. If he doesn't object, I'll  
21 give you some more time.

22 THE DEFENDANT: So it will be 90 days after --

23 THE COURT: The 30 so 120 from now.

24 THE DEFENDANT: File it the same way that I filed

1 my -- my original?

2 THE COURT: Right, because you want to attach  
3 affidavits. And, you know, if you find that you have a  
4 petition that pleads it all that Mr. Davis wanted to change,  
5 you can refile that. I just need a clean copy of the  
6 petition that you are going on so that they can respond to  
7 it, and we can get it resolved one way or another then.

8 What I'd like to do is have a status after Mr. Snow  
9 gets his petition filed.

10 So, Bob, did you keep my book? I want to look at  
11 120 days, roughly 120-day status.

12 THE DEFENDANT: If I start running into problems as  
13 far as getting to the law library and getting it done, I can  
14 file a motion for more time?

15 THE COURT: You know something, I'm not trying to  
16 give the administration a headache at the penitentiary, but,  
17 you know, if you actually need an order for access, I can  
18 enter that when you're acting pro se, so --

19 THE DEFENDANT: I mean we go on lockdowns there as  
20 well.

21 THE COURT: All right. So you're saying some of  
22 them are not --

23 THE DEFENDANT: Something could happen.

24 THE COURT: Then you plead it when you ask for

1 additional time. We're on lockdown for two weeks here, one  
2 week there, I missed this, I missed that, whatever it is. So  
3 I've got to look at --

4 MR. WORKMAN: That first week in August.

5 THE COURT: Yes, I've got to look at August; you're  
6 right. So I'm going to set this for status on August 6th.

7 And does any time make any difference to you,  
8 Mr. Workman?

9 MR. WORKMAN: No, Your Honor.

10 THE COURT: All right. I'm going to set it at  
11 1:30. So the writ is continued. So, Bob, if you'll make a  
12 copy of that.

13 And only discovery and petition filing 90 days  
14 after that are in this order so far. So if either  
15 Mr. -- either of you run into problems with those deadlines,  
16 communicate that to me and I'll either set a hearing or we'll  
17 get it resolved, okay?

18 THE DEFENDANT: So it's due when?

19 THE COURT: August 6th, we need to have your  
20 petition on file by the 6th. And that will be the next  
21 status date; so the writ will be continued to then, so we'll  
22 see you back on that date.

23 (Which were all the proceedings had in the  
24 hearing of the above cause on said date.)



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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

I, Nancy L. McClarty, an Official Court Reporter  
and Certified Shorthand Reporter in and for the Eleventh  
Judicial Circuit of the State of Illinois, do hereby certify  
that I reported in shorthand the foregoing proceedings and  
that the foregoing is a true and correct transcript of my  
shorthand notes so taken as aforesaid.



---

Certified Shorthand Reporter  
License No. 084-002264

Dated this 5th day  
of October, 2018

**EXHIBIT**  
**B**

IN THE CIRCUIT COURT FOR THE ELEVENTH JUDICIAL CIRCUIT  
COUNTY OF MCLEAN

JAMES SNOW,

Petitioner,

- vs -

THE PEOPLE OF THE STATE OF ILLINOIS,

Respondent.

No. 99 CF 1016

Hon. Judge Butler

McLEAN

FILED

MAR 30 2016

CIRCUIT CLERK

COUNTY

**ORDER**

Petitioner Jamie Snow's Motion for Discovery relating to his Motion for DNA and Fingerprint Testing Pursuant to 725 ILCS 5/116-3 having come before this Court, after arguments from the parties and for good cause shown, it is hereby ordered as follows:

1. Petitioner is granted leave to subpoena from the Illinois State Police Division of Forensic Services and the Bloomington Police Department any and all documents under Laboratory #P91-751 and/or Agency #C91-2150 that relate to the existence, collection, storage, forensic examination, chain of custody, and/or destruction of the following:

a. fingerprint lifts from the scene of William Little's murder. This request shall be interpreted to include both full and partial lifts, and lifts determined both suitable and unsuitable for comparison in prior forensic examinations;

- b. clothing collected from William Little on the scene of his murder;
- c. bullets collected from the scene of William Little's murder; and
- d. blood samples collected from the scene of William Little's murder.

2. Petitioner is granted leave to subpoena from the Illinois State Police Division of Forensic Services and the Bloomington Police Department documents related to the 2009 testing of "Exhibit 2A," including:

- a. any and all documents relating to the creation and/or collection of "Exhibit 2A";
- b. any and all documents relating to the transfer of "Exhibit 2A" between the Illinois State Police Division of Forensic Services and the Bloomington Police Department,
- c. any and all documents relating to the storage of "Exhibit 2A" either at the Bloomington Police Department and/or the Illinois State Police Division of Forensic Services; and
- d. any and all documents relating to the Bloomington Police Department's purported discovery of "Exhibit 2A" in 2009.

3. For purposes of the above requests, "documents" shall be interpreted to include, but is not limited to, police reports, photographs, notes, diagrams, electronic or written correspondence, inventory reports, worksheets, laboratory reports, memoranda, and evidence receipts.

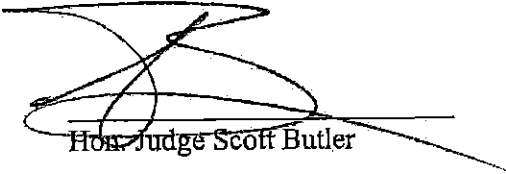
4. Any and all documents responsive to Items 1 and 2 above shall be, subject to any objections by the agencies from which documents are requested, returnable to the Chambers of the Honorable Judge Scott Butler. Upon receipt of this evidence, Judge Butler shall conduct an *in camera* review to determine the responsiveness of this evidence to Petitioner's discovery requests. Judge Butler shall then enter further orders making these discovery responses available to the parties as appropriate.

5. In addition to the above discovery, this Court also orders that the Bloomington Police Department and the Clerk of the Circuit Court of McLean County make available to counsel for Petitioner all available photographs, including originals, of the crime scene of William Little's murder. Counsel for Mr. Snow shall be allowed to bring a color scanner to the Bloomington Police Department and to the Office of the Clerk of the Circuit Court to make high-quality color scans of any available photographs. Counsel for Petitioner will notify Adam Ghrist of the McLean County State's Attorney's Office of the schedule for the viewing of these photographs, and Mr. Ghrist or his representative may, at Mr. Ghrist's choosing, be present for that viewing.

It is SO ORDERED.

Date:

March 28, 2016

  
Hon. Judge Scott Butler

cc Counsel