

**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.* )

No. 99 CF 1016

Hon. Ramon M. Escapa  
Judge Presiding.

McLEAN

FILED

AUG 23 2021

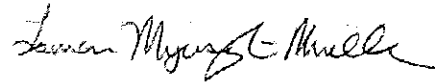
CIRCUIT CLERK

COUNTY

**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 August 20, 2021, I caused to be filed with the Clerk of the Circuit Court of McLean County, the original of the attached Petitioner's Reply to the State's Response to Petitioner's 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  
(312) 736-7042  
Laurenm@exonerationproject.org

**Certificate of Service**

I hereby certify that on this 20th day of August 2021, I caused a copy of the attached **Petitioner's Reply to the State's Response to Petitioner's 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

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CIRCUIT CLERK

ALTAIR COUNTY

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**PETITIONER'S REPLY TO THE STATE'S RESPONSE TO  
PETITIONER'S 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 replies to the State's Response to Petitioner's Motion for Discovery ("State's Response") and respectfully requests that this Honorable Court grant Petitioner's request for discovery in the above-captioned matter. In support of this reply, Petitioner states as follows:

**I. Introduction**

1. James Snow has steadfastly maintained his innocence from the outset of this case. He has fought tirelessly to overturn his wrongful conviction for over two decades.

2. Unfortunately, Mr. Snow's efforts have been stymied by his limited access to discovery in the case against him to which he is entitled to under both the Illinois Supreme Court Rules and case law, as detailed in his Motion for Discovery.

3. The current discovery dispute should not be before the Court. There is no dispute that Petitioner is not seeking any *new* discovery, rather, only materials that were presumably previously made available to Petitioner's prior counsel. There is no dispute that a judge ordered that these documents be tendered. There is no dispute that neither Petitioner nor his counsel has

the majority of the documents. There is no dispute that Petitioner cannot obtain these items through any other means. There is no dispute that this puts no burden on the State or their agents. There is no dispute that the State reviewed the documents it possesses in crafting its Response, but that Petitioner's counsel does not have that same access.

4. And, most importantly, there should be no dispute that these are documents to which the Petitioner—indeed, any criminal defendant in the State of Illinois—is entitled.

5. This issue should have been resolved collegially between the parties, with the State tendering the documents to Petitioner's counsel consistent with the Court's prior orders. This dispute is before the Court solely because the State has chosen to obstruct Petitioner's counsel's access to these documents. The State has not set forth any reasonable explanation for this obstruction.

## **II. Argument**

6. As detailed in Petitioner's Motion for Discovery, Petitioner's trial counsel no longer has the file. As a result, Judge Bernardi ordered all discovery to be turned over to Mr. Snow during post-conviction proceedings on April 2, 2007. Mr. Snow received about 900 pages at that time.

7. 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. In response, BPD disclosed about 8000 pages of documents to the Court for an *in camera* inspection.

8. The Court thereafter tendered possession of the subpoenaed materials to the State and directed Petitioner and the State to review the disclosures and determine what was responsive to the subpoena. These materials have never been in Mr. Snow's possession nor in the

possession of Mr. Snow's current post-conviction counsel—the documents always remained in the State's sole possession.

9. Through a lengthy and time-consuming review at the State's Attorney's Office during working hours, Petitioner's counsel determined that much of those 8000 pages were previously unknown to Petitioner's post-conviction counsel. Indeed, significant information exists that was not part of the State's 2007 discovery disclosure.

10. Aside from the State tendering the documents in its possession, there is no other way for Petitioner to obtain these materials, as the trial lawyer's file has been destroyed and FOIA responses have been heavily redacted and do not contain the missing material.

11. Moreover, the request is nonburdensome as the documents are almost entirely already digitized and in the possession of the State's Attorney's Office. Indeed, the State acknowledges in its Response that the documents consist of "7,704 pages ... in eleven PDF files[.]" (Resp. ¶ 11(b)). All the State needs to do is e-mail those files to Petitioner's counsel.

12. The State's argument that some of the documents in the BPD response are duplicative fails for three reasons: 1) there is no harm or burden associated with turning over duplicative documents; 2) Petitioner is entitled to the documents regardless of whether there are duplicative copies within the 8000 pages; and 3) Petitioner should be allowed to verify the State's claim that the documents are "duplicative."

13. 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 are in digital form, the Court previously ordered the discovery, and the materials are critical to the DNA motion pending before this Court.

14. In fact, the State's Response demonstrates exactly why Petitioner must be given these materials: because their argument focuses on the purported strength of the evidence against Mr. Snow. The State even attempts to use Mr. Snow's dedication to seeking the truth and proving his innocence as a reason for this Court to deny him the discovery to which he is clearly entitled. The State points to every court that has denied any petition or motion of Mr. Snow's since the inception of this case.

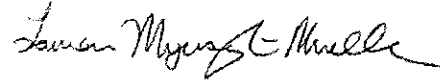
15. Significantly, though, we now know these courts did not have the benefit of all of the evidence before them. At the time of those briefings and arguments, Mr. Snow was severely limited in the arguments he could raise and the evidence he could investigate and cite to because he did not have access to all of the evidence.

16. These materials include significant information related to the underlying investigation and conviction of Mr. Snow that could have had a significant impact on those prior courts' rulings and could have an impact on the pending DNA motion and future motions before this Honorable Court.

17. Indeed, the materials the State is refusing to tender are 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." 725 ILCS 5/116-3(c)(1)(i). The materials the state is refusing to tender contain significant information that calls the strength of the evidence—and the conviction itself—into question.

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

DATED: August 20, 2021



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Attorney for Petitioner

Lauren Myerscough-Mueller  
Karl Leonard  
The Exoneration Project  
311 North Aberdeen, 3rd Floor  
Chicago, Illinois 60607  
(312) 736-7042  
Laurenm@exonerationproject.org