IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT OF ILLINOIS

MACON COUNTY, DECATUR, ILLINOIS

MICHAEL SLOVER, JR. & JEANNETTE SLOVER	)	
Petitioner-Defendant	)	
	)	No. 00-CF-140
v.	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	
Respondent-Plaintiff	)	

AMENDED PETITION FOR POST-CONVICTION RELIEF

Before presenting the factual and legal matters in this case, it is important for surviving petitioners Jeannette Slover, Michael Slover, Jr., and their counsel to note certain points. First, this Petition is written with the understanding that Karyn Hearn Slover was the victim of the most cruel and horrific of crimes. In addition, the investigation into her disappearance and murder, along with the ensuing court records are vast and amount to over 20,000 pages of documents. This case is also high-profile in central Illinois and attracted extensive media coverage, both locally and nationally. It is understood that the information contained in this Petition is highly sensitive; the details of the crime are disturbing; and the emotional impact of the tragic murder of Karyn Hearn Slover has had a devastating effect on a number of people, including Karyn's loved ones and community. With that understanding, great care has been taken throughout this Petition to provide only the personal details about the victim, the crime, alternate suspects, and the witnesses that are necessary to advance the legal claims in this Petition.

Petitioners, MICHAEL SLOVER, JR., and JEANNETTE SLOVER, by and through their attorneys at the THE ILLINOIS INNOCENCE PROJECT; GATES, WISE, SCHLOSSER & GOEBEL, and STEVE BECKETT LAW OFFICE, respectfully request relief pursuant to the Illinois Post-Conviction Hearing Act, 725 5/122-1 *et seq*., and, in support of this request, allege and state the information contained in this Petition.

INTRODUCTION

1. The Slovers are innocent.

2. New evidence, including DNA testing results, has now demonstrated that *at least three unknown male perpetrators* murdered Karyn Hearn Slover and that Michael Slover, Sr., Jeannette Slover, and Michael Slover, Jr. (hereinafter "Slovers") are innocent.

3. This case remains unsolved, and these unknown male perpetrators remain at large more than 20 years after the vicious shooting and dismemberment of Karyn Slover.

4. Macon County wrongfully convicted the Slovers, in a circumstantial case, based on junk science. There were no eyewitnesses, no confession, no murder weapon, no DNA evidence. The case against the Slovers consisted of the forensic comparison of cinders and concrete, clothing fasteners, and dog hair. In the early 2000s, this so-called evidence was presented as new and novel scientific evidence. Now, more than two decades later, this "evidence" could only be considered new or novel because it was not, in fact, based on any real or existing science. This comparison evidence was unproven, unprecedented, and unreliable, and should have never been allowed in a court of law.

5. In addition to the junk science, the State used false and misleading testimony to convict the Slovers. False testimony was used to discredit several defense witnesses. Misleading numbers and statements were used to characterize innocent items found at the Slover property, as evidence of guilt.

6. Outmatched in resources, the Slovers received an inadequate defense that failed to properly challenge the egregiously false and misleading evidence used against them.

7. This flawed trial stemmed from a flawed investigation. Key evidence was not collected or preserved. For example, materials found under Karyn's fingernails were never collected or tested. Other key evidence that was collected was not labeled or properly identified. Bizarre and unorthodox investigation techniques were also used. For example, investigators

purchased carcasses from a local butcher, dismembered it at the Slover property, and left the remains behind, for the Slovers to find when they returned home later.

8. The investigation proceeded for more than three years before the Slovers were arrested. Desperate to solve the crime, and under intense media scrutiny, the police turned back to Karyn's ex-husband, Michael Slover, Jr. The fact that Michael Slover, Jr. had an airtight alibi did not stop the police, who forged ahead, and developed a fantastical theory that he conspired with his parents, Michael Slover, Sr. and Jeannette Slover, to commit this crime.

9. The Slovers have always adamantly maintained their innocence, and repeatedly sought all available forms of testing in the case to prove their innocence and find the real perpetrators. The Macon County State's Attorney (SAO) and/or Illinois State Police have fought this search for answers at every step. When the Slovers requested DNA testing, the Macon County SAO opposed this. When DNA results produced an unknown profile, the Slovers wanted to search for the identity of the individual in CODIS. The Illinois State Police opposed this. When the Slovers wanted unknown fingerprints from the crime entered into the Illinois Automated Fingerprint Identification System (IAFIS), the Macon County SAO opposed this. The Slovers have consistently and repeatedly declared their innocence and have asked for all testing and transparency in this case, only to be fought at every step.

10. The murder of Karyn Hearn Slover was a terrible tragedy. This tragedy was further compounded by convicting three innocent people for a crime they did not commit. Michael Slover, Sr. died an innocent man in prison in June of 2022. Jeannette Slover, age 76 with multiple health problems, and Michael Slover, Jr., remain incarcerated.

11. Considering new DNA testing results, evidence completely discrediting the original evidence at trial, and the fact that false and misleading evidence was used against the Slovers, the

conviction must be vacated, and the State's efforts and resources should be directed, *immediately*, at finding the three unknown males that perpetrated this crime.

BRIEF SUMMARY OF FACTS

12. **Disappearance & Murder of Karyn Slover**. Karyn (Hearn) Slover (hereinafter "Karyn Slover") was last seen alive, leaving her job at the Herald & Review in Decatur, Illinois, at approximately 5:00 P.M. on Friday, September 27, 1996. (Ex. 1 at 6). Later that night, around 9:57 P.M., the car Karyn was driving was found abandoned on I-72 westbound at the Route 10 exit in Piatt County. (*Id.* at 6-7). Witnesses spotted the abandoned car as early as 8:30 P.M. (*Id.* at 7). The car – a black Pontiac Bonneville that belonged to Karyn's boyfriend David Swann—was found running with the key in the ignition, the driver's side door open, with dome lights, taillights, and headlights on. (*Id.* at 7) (Ex. 2) (Ex. 3) (Ex. 4). Piatt County Sheriff's Office generated a missing person's report that night. (Ex. 1 at 7) (Ex. 3).

13. Two days later, on Sunday, September 29, 1996, at approximately 2:20 P.M., the partial remains of Karyn Slover were found in Lake Shelbyville, Illinois, more than fifty miles from where the car was found abandoned, and more than thirty miles from where Karyn was last seen alive. (*See*, Ex. 1 at 7-8). Karyn had been shot in the head and dismembered. (Ex. 5). Her head was found in a gray plastic bag tied with duct tape, which was placed in another plastic bag, tied with a knot. (Ex. 6 at 3). Other body parts recovered included her right chest, her right arm to the elbow, her left and right hands with forearms, her lower abdomen, her left thigh, and left and right feet. (*Id*. at 5). Some of Karyn's body parts were never recovered. Of the remains that were located, most were found in plastic bags similar to that which contained her head. (Ex. 6 at 5). Cinders, broken concrete, grasses or plants, hair, and other debris, were found with her body parts. (*See*, *e.g.,* Ex. 8; Ex. 9; Ex. 10).

14. Blood belonging to Karyn was found on the railing of the Findlay Bridge, which

overlooked Lake Shelbyville. (*See*, *e.g.,* Ex. 6 at 4-5; Ex. 11). Investigators processed the railing and were able to collect a latent fingerprint, located near the blood. (Ex. 6 at 4-5). This fingerprint was later compared to the Slovers and they were determined not to be a match. (*See,* Ex. 12; Ex. 13). Two latent fingerprints were also found on the interior of the front passenger door window of the car Karyn was driving. Neither of those prints matched the Slovers. (Ex. 14).

15. Karyn Slover's cause of death was determined to be multiple gunshot wounds to the head. (Ex. 5). Karyn was shot six times in the left side of the forehead, and one time in the back of the head. (*Id.*). The gunshot wounds were said to be compatible with a .22 caliber bullet. (Ex. 15). Karyn had material under her fingernails, yet it was never collected, or analyzed. (*See*, Ex. 16). There was also an "unusual" finding in that a large amount of sand, rocks, and gravel were found within Karyn's vagina and anus. (Ex. 17 at 138-139). Autopsy reports suggest Karyn was dismembered after death, using some type of powered sawing device, such as a chainsaw. (Ex. 18).

16. The investigation into the murder of Karyn Slover received intense media coverage, especially in the Decatur, Illinois area. In fact, from the date of Karyn's disappearance on September 27, 1996, through the ending of the Slovers trial in June 2002, Karyn Slover's name was mentioned at least 461 times[1] in Illinois newspapers. (Ex. 19). The Herald & Review, the local paper for which Karyn worked, referenced Karyn's name 262 times, alone, during that period. (Ex. 21).

Hunt for killer is on

Police confirm identity of body parts found in Lake Shelbyville

Newspaper offers $10,000 reward

Police advise fearful: Always be aware of surroundings

Co-workers react with shock, horror

Front Page of Herald & Review, September 30, 1996.

[1] This figure is a minimum, as this search only contains newspapers contained in the database newspapers.com. (*See*, Ex. 20).

17. From the beginning, there was no shortage of potential suspects. First on the police's radar was David Swann, Karyn Slover's boyfriend at the time. Swann was one of the last known persons to talk to Karyn, and they had plans to meet later that night. (*See,* Ex. 22 at 8-9). According to Swann, Karyn's plans after work on September 27, 1996, were to pick up her and Michael Slover, Jr.'s three-year-old son Kolten, go to the mall, and then back to David Swann's home. (*Id*. at 8). Swann stated he last talked to Karyn on the phone around 5:00 P.M. (*Id*. at 7-8).

18. Police were also interested in David Swann as a suspect because of a gap in his alibi the night Karyn went missing, and because of his history of violence. The night of September 27, 1996, David Swann was at a wedding rehearsal dinner, but he arrived late for the rehearsal and had about 30-45 minutes that was unaccounted for. (*See*, *e.g*., Ex. 23; Ex. 24). Police eventually found ATM records, showing Swann's whereabouts during this time, and ruled him out as a suspect. (*See*, Ex. 25). Five years before Karyn Slover was murdered, Swann was arrested for aggravated battery, home invasion, and armed violence against his ex-wife. (Ex. 22 at 1-2). Per a 1991 police affidavit from that incident, David Swann:

> "Broke into his estranged wife's apartment armed with a .22 [caliber] semi-automatic pistol…held victim down and struck her 4-5 times and placed the handgun against the left side of her head and stated to victim that he was going to kill her".
>
> (Ex. 26).

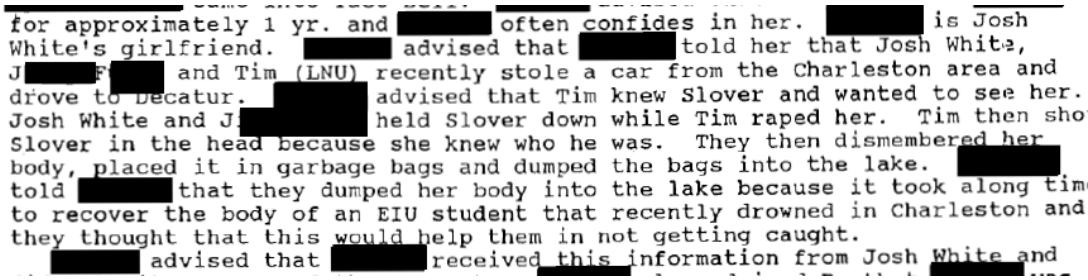
19. In addition to David Swann, police also investigated others Karyn had relationships with in the past. Michael Slover, Jr. was one of these individuals looked at early in the investigation. Michael and Karyn were married in 1993 and divorced three years later, in May 1996. (*See,* Ex. 27). By September 1996, Karyn and Michael had both moved on from their marriage and were in other relationships. Karyn was dating David Swann. Michael was living with a girlfriend named Trina Gifford. (Ex. 28). Karyn and Michael shared custody of their three-year-

old son, Kolten Slover. (*See,* Ex. 27).

20. Michael Jr. cooperated by talking with police and providing a detailed, handwritten account of his alibi. (*See*, *e.g.*, Ex. 29; Ex. 30; Ex. 31). Michael's girlfriend, Trina Gifford; his sister, Mary Slover; and his parents, Jeannette and Michael, Sr., also cooperated with police and gave detailed interviews. (*See*, e.g., Ex. 28; Ex. 32; Ex. 33). Police investigated Michael Slover, Jr.'s whereabouts, and found he had a solid alibi the day Karyn disappeared. (Ex. 23 at 25).

21. Police also investigated Karyn's recent ex-boyfriends Brian Maxey and Dale Lucas. Maxey lived with Karyn for about three months in the summer of 1996, but they broke up in the middle of August. (Ex. 7 at 378). Maxey had an alibi, as he was with a friend in Springfield the night of September 27, 1996. (*Id*.). Dale Lucas dated Karyn before her relationship with Brian Maxey. Police learned that Lucas had allegedly been threatening and abusive to previous girlfriends. (*See*, *e.g.*, Ex. 34; Ex. 35). However, Dale Lucas had an alibi and was at work the night of Karyn's disappearance. (*See*, Ex. 36).

22. Within days of Karyn's murder, police received a flurry of tips that three males[2] named Timothy Roach, Joshua White, and J.F. and/or J.S. acted together to murder Karyn Slover. (*See*, *e.g.*, Ex. 37; Ex. 38; Ex. 39). These tips involved details consistent with the gruesome murder, including that she was shot in the head, dismembered, placed in garbage bags and dumped in the lake. (Ex. 37).


for approximately 1 yr. and [redacted] often confides in her. [redacted] is Josh White's girlfriend. [redacted] advised that [redacted] told her that Josh White, J[redacted] and Tim (LNU) recently stole a car from the Charleston area and drove to Decatur. [redacted] advised that Tim knew Slover and wanted to see her. Josh White and J[redacted] held Slover down while Tim raped her. Tim then sho Slover in the head because she knew who he was. They then dismembered her body, placed it in garbage bags and dumped the bags into the lake. [redacted] told [redacted] that they dumped her body into the lake because it took along tim to recover the body of an EIU student that recently drowned in Charleston and they thought that this would help them in not getting caught.
[redacted] advised that [redacted] received this information from Josh White and

Ex. 37 (from10/02/1996 Charleston Police Department report)

[2] The names of two of these males are listed because they were said to be directly involved in the murder of Karyn Slover and because their names were previously filed in public documents pertaining to this case and/or the Kankakee case described below. However, names of individuals not said to be directly involved and not listed in other public documents are omitted and initials are used instead.

23. Officers also learned that the same day Karyn Slover's body was found, on September 29, 1996, Timothy Roach[3] and Joshua White[4] were involved with a stolen car, fled police, and ran over a police officer, causing the officer serious bodily harm. (*See*, *e.g.*, Ex. 40). Officers from the Slover case searched the vehicle the men were driving, as well as the hotel room they stayed in that weekend. (*See*, *e.g.*, Ex. 41; Ex. 42). Police also obtained fingerprint impressions from Roach and White. (*See, e.g.*, Ex. 12). Their fingerprints were compared with evidence in the Karyn Slover case and said to not reveal an identification. (*See*, *Id*.).

24. In addition, the police received tips about dozens of other suspicious individuals who may have been involved in the crime. Likely due to the extensive media coverage, police also received tips from psychics, people who had dreams about the murder, and people that heard about similar crimes that had occurred throughout the United States. In early 2000, more than three years after the crime occurred, police had still not made an arrest.

25. Some questionable and unorthodox steps were taken during the investigation. For example, even though the key to the Pontiac Karyn was driving was found in the ignition with the car running, a police officer turned the key off with their hand, possibly destroying any fingerprints that could have been left by the perpetrator[s]. (*See*, Ex. 14). At trial, police could not recall whether latent fingerprints were ever lifted from this key, nor did police recall where the key was at the time of trial. (*See*, Ex. 43 at 607-608). Further, although some of Karyn's fingernails appeared to have materials under them, fingernail scrapings were never taken. (Ex. 16).

26. Law enforcement also mishandled crucial pieces of evidence: the bags in which

[3] According to police reports, Timothy Roach was a passenger in a Suzuki driven by Joshua White. White and Roach were traveling with another vehicle, a stolen Ford, in which the occupants were J.S., T.L., and R.R. The Ford vehicle was pulled over by police. White then drove the Suzuki into the police officer, allegedly so the passengers in the Ford could escape. Timothy Roach fled on foot but was later apprehended. All five individuals were arrested and charged related to this incident.

[4] See Footnote 1 above.

Karyn Slover's body parts were found. Officer Joe Siefferman testified that when he recovered the bags with Karyn's remains, he did not label the respective bags and did not visually keep track of which body part was contained within each bag. (*Id*. at 604-605). Thus, some of the bags in evidence are labeled as containing human remains, but it cannot be determined what evidence each bag contained.

27. Investigators employed other unusual procedures. First, during an autopsy, the hands of the victim were cut off. (Ex. 44). The stated purpose was to obtain fingerprints from the victim. (*Id*.). This measure was taken despite other less-invasive options for obtaining fingerprints. Further, around the time the Slovers' property was searched, an investigator from the Macon County State's Attorney's Office and Illinois State Police Officer Thomas Martin went to a local meat market and purchased a ham bone and a beef bone "for the purposes of sawing them apart". (Ex. 45). These animal carcasses were then taken to the Slover property during search, dismembered, left on the property, and discovered by Michael Slover, Sr. (*Id*.).

28. The investigation also looked at Karyn's life, including her financial situation. During the investigation, it was revealed that Karyn Slover had numerous mounting financial problems at the time she was murdered. Karyn was three months behind on rent. (Ex. 7 at 373). Her electricity had been shut off. (*Id*.). She had been charged hundreds of dollars in overdraft charges and returned checks. (*Id*.). Loan officers discussed repossessing Karyn's car. (Ex. 46). Just weeks before her death Karyn pawned a favorite diamond ring for $120 even though the broker told her the ring was worth more. (Ex. 7 at 373). The day Karyn disappeared she cashed that check. (*Id.*). Investigators were never able to uncover the underlying reason for these financial difficulties, or whether they were connected to Karyn's murder.

29. After years of investigation with no arrest, the police turned back to the Slovers.

Yet Michael Slover Jr. had an airtight alibi. On the night Karyn disappeared, he worked at three different jobs—as security at local supermarket, as a martial arts instructor, and then at a bouncer at a local bar called Ronnie's. (*Supra,* 10). Police then came up with the theory that Michael Slover, Jr. conspired with his parents to commit the crime on his behalf. Thus, Michael Slover, Sr., an employed grandfather with no record of any violent criminal history, and Jeannette Slover, a grandmother who worked as a daycare provider and had never been arrested in her life, somehow became prime suspects in a horrific crime involving murder and dismemberment. (Ex. 47) (Ex. 48).

30. At the time of Karyn's disappearance and murder, Michael Slover, Sr. and Jeannette Slover had been married for 30 years. (*See*, Ex. 49 at 97-98). They lived in Decatur, Illinois, and had two adult children, Mary Slover and Michael Slover, Jr. (*Id*. at 98). Michael Slover, Sr. worked at Clinton Power Plant and owned a used car lot called Miracle Motors. (Ex. 50) (Ex. 51). He had no history of violence. (Ex. 47) (Ex. 51). Jeannette Slover was a 56-year-old grandmother, who worked as an in-home daycare provider for a friend's 2-year-old child, as well as for her three-year-old grandson, Kolten. (*See*, Ex. 52; Ex. 49 at 98-99, 108, 109-110). Jeannette Slover had no criminal record. (Ex. 48).

31. Jeannette and Michael Slover, Sr. provided interviews to police and discussed their whereabouts for Friday, September 27, 1996, the night that Karyn disappeared. (*See*, *e.g*., Ex. 33; Ex. 53; Ex. 54). They also testified to this at a grand jury hearing. Jeannette babysat Kolten and the 2-year-old child that day. (Ex. 52). The 2-year-old child's parent picked him up at 3:30 P.M. (*Id*.). Around 4:30 p.m. or 4:45 p.m. Michael Slover, Sr. returned home from work at the Clinton Power Plant. (Ex. 50 at 142). Jeannette and Kolten were at home with him; Jeannette made Michael Sr. a sandwich. (*Id*.). Then between 5:00 p.m. and 5:30 p.m., Jeannette and Kolten went to K-Mart,

and Michael Slover, Sr. went to the Miracle Motors car lot, where he went at least twice per day to take care of the dogs that were kept there. (*See,* Ex. 49 at 124-125). Jeannette and Kolten returned to the Slover home sometime after 6:00 p.m., then went to the car lot to see Michael Sr. around 8:00 p.m. (*Id*. at 126-128). Sr., Jeannette, and Kolten spent some time at Miracle Motors. (*Id*. at 128). At the car lot, the Slovers played with the dogs and Senior opened the lot for business. (Ex. 49 at 128) (Ex. 50 at 143). The Slovers had plans to take Kolten to the local McDonald's playland, but by the time they arrived, Kolten had fallen asleep in the backseat. (Ex. 49 at 127-128). Not wanting to wake up Kolten, the Slovers turned around and arrived home around 8:30 p.m. (*Id*. at 128). The Slovers were home and answered the phone when Larry Hearn, Karyn's father, called around 10:00 p.m. to say that Karyn was missing. (*Id*. at 129-131).

32. Although Karyn normally picked Kolten up between 5:00 p.m. and 6:00 p.m. Karyn did not pick up Kolten on this date. (*See*, *Id.* at 119-120). Jeannette explained that Karyn was often late picking up Kolten. (*See*, *Id*.). In the weeks before Karyn went missing, Jeannette noticed Karyn seemed stressed, and Jeannette told her not to worry if she was ever going to be late. (*Id.*). Plus, Jeannette and Michael, Sr. often kept Kolten overnight. (*See*, *Id*. at 119-120). In fact, the week before Karyn disappeared, Kolten stayed over at the Slovers' two different nights — at Karyn's request. (*Id*. at 118-120). Jeannette stated Karyn and Kolten were always welcome at her house and Karyn "did not have to punch a time clock with me." (*Id*. at 130). Jeannette had told Karyn if she needed her there at a certain time, Jeannette would let her know, otherwise not to worry about it. (*Id*.).

33. **Arrests**. Even though there were no eyewitnesses, no confession, no DNA, and no murder weapon connecting the Slovers to the crime, on January 27, 2000, Michael Slover, Sr., his wife Jeannette, and their son, Michael Slover, Jr., were arrested for the murder of Karyn Slover.

(Ex. 55) (Ex. 56) (Ex. 57).

34. **Trial**. Michael Costello was retained counsel for Petitioner Jeannette Slover. Appointed counsel for Michael Slover, Sr. was Macon County Assistant Public Defender Brad Rau; appointed counsel for Michael Slover, Jr. was Macon County Public Defender Joe Vignieri. (Ex. 58). Initially, the Macon County State's Attorney's Office declared the matter a death penalty case. As a result, the then-existing Capital Defense Fund was available as a resource to the Petitioners. Additional counsel was appointed for Michael Slover, Sr. and expert investigators were retained for the defense team. Thereafter, the Macon County State's Attorney revoked the decision to seek the death penalty and the Petitioners no longer had access to the additional counsel or experienced investigators.

35. When the matter was set for trial in April of 2002, attorneys Rau and Vignieri sought to have the matter continued based on many factors including: the loss of investigators, the caseload they had as public defenders, inadequate preparation for trial, and the inability to provide effective assistance of counsel for Michael Slover, Sr. or Michael Slover, Jr. (Ex. 59). Their request was denied.

36. Thus, the jury trial commenced in April 2002 in Macon County, Illinois. (Ex. 58). This was despite repeated pre-trial motions by the defense to remove the case from the county, due to the extensive media coverage biasing the jury pool. (*See*, e.g., Ex. 60; Ex. 61). This media coverage included multiple inflammatory statements made to the press, and in open court, by the Macon County State's Attorney's Office. (Ex. 60). Quotes include, "If you tell me to go to shoot Santa Claus and I do, we're both guilty of murder"; "He [Kolten] was present in the house while his mother was being sliced up"; and "…the defendants took this woman out and butchered her like an animal and then put her body in trash bags.". (*Id*.). A demographic survey was conducted

among potential jurors in Macon County, finding 91% had been exposed to information about the murder, 88% knew at least one defendant's name, 85% knew the victim was dismembered, and 80% knew the police searched the defendants' property. (*Id*.). Forty-three percent admitted they had already formed an opinion of guilt, 91.5% of whom believed the Slovers were guilty, before the trial even started. (*Id*.). The change of venue requests were denied.

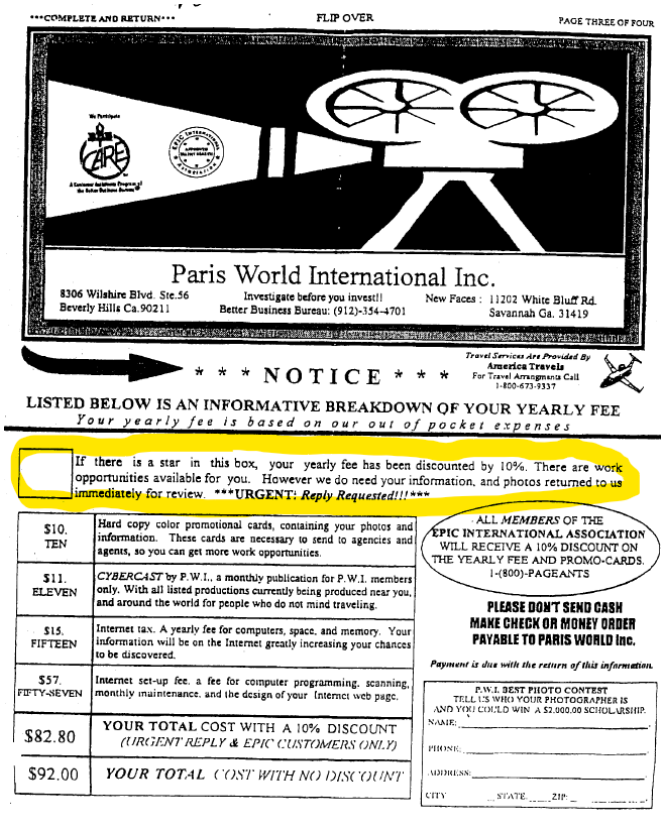
37. The State's theory was that after Karyn left work on September 27, 1996, she met with Jeannette and Michael Slover, Sr. to pick up Kolten. The State theorized that Jeannette and Michael Slover, Sr. — at the behest of Michael Slover, Jr.—shot Karyn, then dismembered her body at the Miracle Motors car lot, and disposed of her body in Lake Shelbyville. The alleged motive was that the Slovers were afraid Karyn was going to take Kolten out of state. The evidence presented against the Slovers was entirely circumstantial. There were no eyewitnesses, no confession, no murder weapon, no DNA, and no witnesses placing Karyn at or near Miracle Motors that day.

38. A summary of the main evidence presented against the Slovers at trial, as well as some of the defense's key responses, are as follows:

[a.] **Jeannette & Karyn's Relationship**. The State put on evidence that the relationship between Jeannette Slover and Karyn Slover was strained. (*See*, *e.g*., Ex. 62). The State also pointed to a clause in Karyn and Michael Slover, Jr.'s divorce that provided that Jeannette would babysit Kolten until Kolten attended Kindergarten, unless changed by agreement of the parties. (*See*, Ex. 63 at 1106). Karyn's divorce attorney Richard Hopp testified that he had never made a provision like this in a previous case. (*Id*. at 1106-1107).

> ***Defense***: Upon cross-examination, Richard Hopp testified that the divorce was uncontested. (*Id*. at 1109-1110). Hopp also testified that the parties had joint custody of Kolten and that the court was not to enter any judgment unless it was in the best interests of the child. (*Id*. at 1110-11). Further, Hopp testified that if one of the parties wanted to leave the state with the child, they would have had to seek permission from the court first. (*Id*. at 1113-15).

[b.] **Karyn & Modeling**. Witnesses also testified that Karyn applied to a modeling job out of state, and that the Slovers were aware of this. (*See*, *e.g.*, Ex. 64). An individual named Alan Tapley, who previously worked for a modeling company named Paris World testified that he had contact with Karyn regarding potential modeling job. (*See*, *e.g.*, Ex. 65). Tapley testified that he had a job for Karyn but "[couldn't] be sure as far as the exact date" and did not remember what the job was. (*Id.* at 1455-1456). Tapley further stated he believed they notified her of the job, "but [didn't] remember exactly". (*Id*. at 1456).



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If there is a star in this box, your yearly fee has been discounted by 10%. There are work opportunities available for you. However we do need your information, and photos returned to us immediately for review. ***URGENT: *Reply Requested!!!*****

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$11. ELEVEN	*CYBERCAST* by P.W.I., a monthly publication for P.W.I. members only. With all listed productions currently being produced near you, and around the world for people who do not mind traveling.
$15. FIFTEEN	Internet tax. A yearly fee for computers, space, and memory. Your information will be on the Internet greatly increasing your chances to be discovered.
$57. FIFTY-SEVEN	Internet set-up fee, a fee for computer programming, scanning, monthly maintenance, and the design of your Internet web page.
$82.80	YOUR TOTAL COST WITH A 10% DISCOUNT *(URGENT REPLY & EPIC CUSTOMERS ONLY)*
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NAME: _____

PHONE: _____

ADDRESS: _____

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Application mailed by Karyn Slover on 9/27/1996 to Paris World. Highlighted box is not checked, indicating there was no work for Karyn.

Defense: Tapley admitted that Karyn sent in an application dated 9/27/1996 to his company. Tapley also admitted Karyn paid $92 as a fee to submit this application. (*See*, *e.g.*, Ex. 66). Tapley admitted the application Karyn submitted had a box on it that said if it were checked, there were work opportunities for the applicant, and that this box was not checked. (*Id*. at 1497-98). Tapley also testified that jobs with his company were "very short term" and lasted "anywhere from one day to three weeks or a month". (*Id*. at 1491).

[c] **Cinders & Concrete**. The State presented expert testimony from Richard Munroe, a former Canadian police officer with a Bachelor's degree in Earth Sciences who used to work in the cement industry. (*See*, Ex. 67 at 1919-20, 1927, 1950). Munroe testified that some of the concrete found with the body of Karyn Slover was the same, or consistent, with some found at the Miracle Motors car lot. (*See*, *e.g.*, *Id.* at 2115-17, 2136-37). He also testified that some of the concrete found with her body was weathered to the same degree as that found on the Miracle Motors car lot. (*Id*. at 2127). Munroe further stated cinders found with Karyn Slover's body were consistent with cinders from Miracle Motors car lot. (*See*, *Id*. at 2153).

Defense: The defense called Dr. Raymond Murray, a forensic geologist, with a Ph.D. in Geology, and retired Vice President of the University of Montana, who had published two books in forensic geology. (Ex. 68 at 9-11), Dr. Murray testified that cinders had no evidentiary value because every cinder was different, so you could never say that cinders were the same, and thus, came from the same batch. (*Id*. at 17-18). Dr. Murray did state it was possible to get some useful evidentiary information from cinders if they were in large batches, but there was not sufficient quantity in this case. (*Id*. at 18, 21). Dr. Murray testified that, unlike cinders, concrete

can provide good evidence because every batch of concrete is different. (*Id*. at 22). Dr. Murray testified that he examined the concrete found with the body of Karyn Slover and compared it to the concrete at Miracle Motors and that it was different and did not come from the same batch. (*Id*. at 26-30).

[d.] **Buttons & Rivets**. The State called witnesses to show that buttons and rivets found at the Miracle Motors car lot years after Karyn's murder were consistent with the type of buttons and rivets found on Karyn Slover's body. Jonie Drafts from the Knight Textile Company testified that the type of jeans found on Karyn Slover was Maurices Paris Sport Club, sized seven tall jeans. (*See*, Ex. 69 at 2304, 2312-13, 2317-18). Drafts testified there were 1,250 of this size seven tall jeans manufactured. (*Id*. at 2323). Suzanne Kidd, a forensic scientist with the Illinois State Police, testified that she examined a metal button and rivets found on the Slover's property and that these buttons could have originated from the same jeans Karyn Slover was wearing. (*See*, Ex. 70 at 2345, 2366-68, 2373). Suzanne Kidd also testified a cloth button found on the Slover property was similar in class characteristics to the cloth buttons on Karyn's partially clothed body, and, thus, they could have originated from the same blouse. (*See*, *Id*. at 2390).

Defense: During cross-examination, Jonie Drafts admitted that the same buttons were also on several other styles of jeans, as well as denim shorts, and a jumper. (Ex. 69 at 2326, 2329). Suzanne Kidd admitted that the buttons and rivets could have originated from any type of jeans product that had the same type of buttons and rivets. (Ex. 70 at 2394-95). Regarding the cloth-covered button, Kidd testified that in comparing the cloth-covered button found on the Slover property with the one found on Karyn Slover's body, one button had a "20 type" marking on it, and, due to burn damage, it was impossible to determine if the other button had this marking. (*See*, *Id.* at 2399-400, 408). In closing arguments, the defense pointed out that a total of five million of these types of rivets, and over 3.5 million of the metal buttons, were produced. (Ex. 71 at 65). The defense also argued the cloth button was "conveniently damaged over the area where the number 20 was located", and that there was no information about whether Karyn was even missing any cloth buttons from her blouse. (*Id*. at 66). Further, the defense pointed out that the Slovers had a lot of burnt clothing items found on their car lot because they bought undetailed cars to resell, did not have trash collection on that property, and, thus, disposed of the items left in the cars by burning them. (*Id*. at 67).

[e.] **Grass**. Thomas Voigt, an Assistant Professor and Extension Turfgrass Specialist at the University of Illinois, identified plants found with Karyn Slover's body as foxtail, nimble will, and seeds from switchgrass. (*See*, Ex. 72 at 1770, 1777-79). Professor Voigt also testified that on September 7, 1999, he went to Miracle Motors, and found foxtail and nimble will present, but no switchgrass. (*See*, *Id*. at 1781). Professor Voight testified that it was possible for switchgrass to have been

growing there three years earlier. (*Id*. at 1782).

Defense: Professor Voigt admitted that he had all three types of grasses in his own yard (*Id*. at 1794).

[f.] **Dog Hair**. The State presented the testimony of Dr. Joy Halverson, who identified herself as the senior scientist and president at QuestGen Forensics. (Ex. 73 at 2423). Dr. Halverson conducted DNA testing by comparing the dog hair found with Karyn Slover's remains and compared that to dog hair obtained from the Slovers dogs. (*See*, *e.g*., *Id.* at 2552). Dr. Halverson testified that her initial testing determined the dog hairs were not a match or were excluded. (*See*, *Id.* at 2573). Dr. Halverson testified that she then re-tested the samples and found one of the hairs from the Slovers' dogs matched a dog hair found with Karyn's remains. (*See*, *Id.* at 2578-79). Dr. Halverson stated that the statistical probability of this occurring randomly was 1 in 56,000. (*Id.* at 2564).

Defense: Upon cross-examination, Dr. Halverson admitted that she found possible contamination during testing for this case and had to change her protocol to add a decontamination step. (*See*, *Id.* at 2574, 2577). Dr. Halverson admitted that this match was only at four scorable loci and that it was "at the bottom rung of conclusions." (*Id*. at 2582-83). She also acknowledged that her calculations did not take into account any laboratory error, or any adjustment for the fact that the database she used to determine statistics only contained purebred dogs, whereas the Slovers dogs were inbred. (*Id*. at 2585). The defense called Dr. Christopher Basten, a statistical expert who often testified in tandem with Joy Halverson. (*See*, Ex. 74 at 4-5, 8). Dr. Basten testified that he did not agree with Dr. Halverson's calculations, because she factor in the interrelatedness among dogs. (*See*, *Id.* at 15). Instead, Dr. Basten estimated the calculation of a match between the dogs was 1 in 1,680 [as compared to Dr. Halverson's 1 in 56,227 figure]. (*See*, *Id.* at 21-22). In closing arguments, the defense also pointed out that dog hair could have been transferred from Kolten or Karyn, who both came in regular contact with the Slovers' dogs. (*See*, Ex. 71 at 68-69).

[g.] **Allegations of Prior Abuse:** The State called witnesses who testified that years before Karyn Slover's death, Michael Slover Jr. physically abused Karyn. (*See*, *e.g*., Ex. 75; Ex. 76).

Defense: Regarding the witnesses that testified that Michael Slover, Jr. was physically abusive to Karyn in the past, the defense argued that the witnesses did not call the police at the time but came forward only when the case received a lot of media attention. (Ex. 77 at 102-03). The defense argued that even if these witnesses are to be believed, it shows that Michael Slover, Jr. was not a good boyfriend or husband, but it does not mean that he killed Karyn. (*See, Id*. at 102).

[h.] **Karyn's Black Purse**: The State put on witnesses, trying to establish that Michael Slover, Jr. knew early on that Karyn's purse was found in the abandoned car, suggesting he knew this information because he and his parents were the perpetrators. (*See*, *e.g.*, Ex. 78 at 54; Ex. 79 at 1589).

Defense: The defense argued that there was "an explanation for each and every one of these things" and pointed out that the police chief from Cerro Gordo came into Ronnie's that night and did not say that Michael Slover Jr. said anything about a purse. (Ex. 80).

[i.] **Gun Ownership**. William Richter, who did business with Michael Slover, Sr. at Miracle Motors testified that Michael Slover, Sr. once had a gun on the Miracle Motors property in case of robberies. (Ex. 81 at 1381, 1383).

Defense: Upon cross-examination, William Richter admitted he had memory problems and drinking problems, and sometimes saw things that were not there. (*Id*. at 1389-1390). Richter also admitted that he had a felony case of aggravated domestic battery that was reduced to a misdemeanor after testifying in front of the grand jury in this case. (*Id*. at 1393-94).

[j.] **Weed-Whacking & Burning**. Neighbors saw Michael Slover, Jr. weed-whacking and burning things on the Miracle Motors property the week after Karyn disappeared. (*See*, *e.g.*, Ex. 82; Ex. 83).

Defense: The neighbors testified that there was regularly burning on that property before Karyn Slover was murdered. (*See*, Ex. 84). The defense also presented testimony from a city employee, showing that the Slovers had a weed notice dated September 30, 1996. (*See,* Ex. 85)

[k.] **Alleged Phone Call with Mike Slover, Jr.** Christy Quintenz, a co-worker of Karyn's at the Herald & Review, testified that the day Karyn disappeared, she saw Karyn on a phone call and overheard her talking about her modeling job. (Ex. 86 at 1749-55). Quintenz stated Karyn's mood changed, she looked scared and was shaking, and mouthed the word "Mike.' (*Id*. at 1755-57).

Defense: Upon cross-examination, Quintenz admitted her stepfather was a prosecutor involved in the case when she made the statement. (*Id*. at 1758) (Ex. 87).

39. In addition to those described in [a] through [k] above, the defense called numerous other witnesses. For example, several people testified to Michael Slover, Jr.'s alibi. (*See*, e.g., Ex. 88; Ex. 89 at 5-9; Ex. 90). Also, multiple individuals testified to seeing a person fitting Karyn

Slover's description and/or a car fitting the description of the vehicle she was driving, on the evening of September 27, 1996. These sightings were between the hours of approximately 5:25 P.M. and 9:30 P.M. in areas including Champaign[5], Cerro Gordo[6], Lovington[7], and Hammond[8], Illinois. (*See*, *e.g.*, Ex. 91; Ex. 92; Ex. 93). Each of these sightings was inconsistent with the State's theory that Karyn Slover drove straight from the Herald & Review in Decatur, Illinois after getting off work, to Miracle Motors in Mt. Zion, Illinois, where the State claims Karyn was murdered.

40. The defense also called a forensic pathologist, Dr. Travis Hindman, to the stand. (Ex. 17 at 131). Dr. Hindman testified that he did an autopsy on Karyn's pelvis, and found large amounts of rock, sand, and gravel within the vagina and anus. (*Id.* at 131, 134-139). Dr. Hindman stated his opinion that the debris was placed there, as opposed to the debris getting in the vagina and anus through some action of the waves in the lake. (*See*, *Id*. at 141-143).

41. The defense also put on testimony that there were numerous other parts of clothing, such as fasteners, a Wrangler jean label, zippers, etc. found on the Slover property that were not said to be connected to Karyn Slover or the homicide in any way but were instead evidence of the Slovers' habit of disposing of garments left in auctioned cars by burning items in their trash barrel. (*See*, *e.g.*, Ex. 94; Ex. 95). Thus, arguing that any buttons, rivets, or other clothing found at Miracle Motors was due to the car business, and not because of any connection with Karyn Slover's murder.

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[5] Charles Housh testified he saw a car with the CADS7 license plates around 8:30 pm on September 27, 1996, near the I-72 and 57 North intersection. (Ex. 96).

[6] Tina Arseneau testified that on September 27, 1996, between 5:45 and 6:00 p.m.., she saw a car with the CADS7 license plate pull into the IGA parking lot in Cerro Gordo, Illinois. (Ex. 92).

[7] Lisa Franklin Kidwell testified that on September 27, 1996, between 5:30 and 6:00 p.m. Karyn Slover came into her restaurant, after parking outside in a car with a CADS7 license plate. (Ex. 93).

[8] Mark Adcock testified that on September 27, 1996, around 6:30 pm, near the Hammond Café in Hammond, Illinois, he saw a dark-colored Pontiac with the license plate CADS7 with a white female driving it at an "incredible" rate of speed. (Ex. 91).

42. **Conviction & Sentencing**. In 2002, Michael Slover, Jr. and Michael Slover, Sr. were convicted of first-degree murder and concealing a homicide, and Jeannette Slover was convicted of first-degree murder. (Ex. 97) (Ex. 98 at 121-123). Before being sentenced, each of the Slovers had the opportunity to speak, and each declared their innocence. (*See,* Ex. 98 at 99-112). Michael Slover, Jr.'s attorney, when asked for his recommendation of a sentence, stated that he could not "in good conscience" recommend that his client serve one day in prison (*Id.* at 120). The Slovers were each sentenced to 60 years in prison. (*Id.* at 121-123). Michael Slover, Jr., and Michael Slover, Sr. received an additional five years for concealing a homicide. (*Id*.).

43. **Direct Appeal**. The verdict was affirmed upon direct appeal. Review by the Illinois Supreme Court was denied. (Ex. 99).

44. **Post-Conviction History**. On December 15, 2006, counsel also filed a Petition for Post-Conviction Relief claiming ineffective assistance of counsel, knowing use of false testimony, and violation of due process rights. This Petition was denied by the circuit court on March 5, 2007. (Ex. 100). In July 2008, the appellate court reversed the denial of the post-conviction petition and remanded the petition for second-stage proceedings. (Ex. 101). The appellate court further stated that at the second stage, the Petitioners have the opportunity to amend the petition. (*Id*. at 10.).

45. Upon the remand with the assistance of volunteer private counsel and resources of the Illinois Innocence Project, the Slovers sought to fully investigate the death of Karyn Slover, including obtaining forensic evidence and expert review to establish claims for post-conviction relief and establish their actual innocence.

46. In December 2009, the Slovers petitioned the court for post-conviction fingerprint testing, using technology that was not available at the time of trial. (*See*, *People v. Slover*, 2011 IL App (4th) 100726.). Specifically, the Slovers requested unknown fingerprints from the guardrail

of the Findlay Bridge and from a Hardees sack in the abandoned car be tested in the Illinois Automated Fingerprint Identification System (IAFIS). (*Id*.). In March 2010, the post-conviction motion for fingerprint testing was denied by the circuit court. (*Id.).* The Slovers appealed, but the decision of the trial court was upheld. (*Id*.).

47. On October 10, 2013, the Slovers filed a Petition for Post-Conviction Forensic [DNA] Testing. (Ex. 102). This motion was opposed by the Macon County State's Attorney's Office. (Ex. 103). On June 9, 2014, the court entered an order allowing this DNA testing. (Ex. 104). On October 30, 2015, Bode Cellmark issued a report that found there was an *unknown male* DNA profile on a gray plastic trash bag that contained Karyn Slover's body parts, and that the Slovers were *excluded* from that profile (Ex. 105 at 3). Officials at the Illinois State Crime Lab, when notified of the October 30, 2015, report, and its findings, have failed and refused to submit the unknown male profile for DNA identification to CODIS, the national DNA database.

LEGAL CLAIM I: ACTUAL INNOCENCE

48. Jeannette and Michael Slover, Jr. re-allege every paragraph of this petition and expressly incorporate them as if they were fully set forth herein.

49. Since the trial in 2002, there is new evidence exonerating the Slovers, and demonstrating that the case against them was based on junk science and false, misleading testimony. Most powerful among this evidence, are new DNA testing results exonerating the Slover family which warrant their immediate release from prison and their convictions vacated.

A. DNA TESTING OF KEY EVIDENCE EXCLUDES THE SLOVERS

DNA Exclusion #1: Slovers Excluded from Duct Tape on Gray Plastic Bag

50. First, Michael Slover, Sr., Jeannette Slover, and Michael Slover, Jr. were each excluded from the partial DNA profile obtained from a piece of duct tape adhered to a gray plastic bag that contained Karyn Slover's remains. (*See*, results for CF Item FR-14-0326-03.02.2 from

Ex. 105). DNA from this item is a mixture of at least two unknown individuals—at least one of whom is a male. (*See, Id.*). This result demonstrates that at *least two unknown individuals*, and not the Slovers, left their DNA on the bags and tape in which Karyn Slover's body was discarded. *This result alone demonstrates the Slovers are innocent.*

DNA Exclusion #2: Jeannette Slover & Michael Slover, Jr. Excluded from Another Piece of Duct Tape

51. In addition, Michael Slover, Jr., and Jeannette Slover[9] are excluded from *another* piece of tape attached to a gray plastic bag, in which Karyn Slovers' remains were found. (*See*, results for Bode Sample Name CCC 1598-0504-E10 from Ex. 106; and CCC159B-0504-10c from Ex. 107). Although Bode attempted to obtain a Y-STR profile from Michael K. Slover, Sr., no Y-STR profile was able to be obtained from the head hair sample he submitted, and thus his DNA could not be compared to this item of evidence. (*See*, Ex. 106 at 2). In addition to excluding Jeannette and Michael Slover, Jr., it was determined that *at least three unknown male profiles* were obtained from this item of evidence. (*See*, Ex. 107). This again demonstrates that the Slovers are innocent and that *multiple other male perpetrators* committed the crime. These male perpetrators remain unknown and at large today.

DNA Exclusion #3: Jeannette Slover & Michael Slover, Jr. Excluded from DNA on Findlay Bridge

52. Michael Slover, Jr., and Jeannette Slover are excluded from a third, crucial piece of evidence – DNA obtained from the fingerprint on the Findlay bridge. (*See*, results for Bode Sample Name CCC 1598-0504-E19 from Ex. 106; and CCC159B-0504-19 from Ex. 107). Like Bode sample CCC 1598-0504-E10 described above, Michael Slover, Sr. could not be compared

[9] Jeannette Slover is excluded from this evidence, as all three of the profiles obtained were male profiles, and thus excluded Jeannette Slover. (*See*, Ex. 107 at 5, "Sample CCC159B-0504-10c revealed a partial, low-level Y-STR profile from at least three (3) contributors (this being a Y-STR profile all contributors are male")).

to this item of evidence because a Y-STR profile could not be obtained from him. (*See*, Ex. 106 at 2). Also, like Bode sample CCC 1598-0504-E10, Jeannette Slover can be excluded from this item of evidence because the DNA profile obtained is that of a male, a Y-STR profile. (*See*, Ex. 106 at 2-3; Ex. 107 at 5).

DNA Exclusion #4: Jeannette Slover & Michael Slover, Jr. Excluded from Hair

53. In addition to being excluded from three other pieces of evidence, Jeannette and Michael Slover, Jr. are excluded from a *fourth* piece of evidence in the murder of Karyn Slover. This exclusion is on a partial mitochondrial DNA profile obtained from a hair found on the duct tape contained with Karyn Slover's remains. (*See*, results for Bode Cellmark Sample Name CCC1598-0504-E04a from Ex. 108). Michael Slover, Sr. cannot be excluded from this hair. (*See*, *Id*.). It is important to note that just because Michael Slover, Sr. cannot be excluded as being the contributor to this sample, it *does not mean* that this hair does belong to Michael Slover, Sr. (*See*, Ex. 106; Ex. 107). This is because mitochondrial DNA "can never provide a conclusion of identity" and is best used for exclusionary purposes. (Ex. 107). Further, as described in the Independent Forensics Report, it can be difficult to obtain evidence of guilt or innocence from a hair, since hair is small, lightweight, and easily transferable. (*See*, *Id.*).

54. Given that (a) all three Slovers are excluded from at least one piece of probative evidence; (b) Jeannette and Michael Slover, Jr. are excluded from all four pieces of evidence; (c) at least two unknown individuals males were found on one piece of evidence; (d) at least three unknown males were found on a further piece of evidence; and (e) that none of these pieces of evidence can be determined to be any of the Slovers, these DNA results conclusively demonstrate the Slovers' innocence and necessitate their release.

55. Disturbingly, there have been no attempts by law enforcement, nor the Macon

County State's Attorney's Office to determine the actual source of these profiles. David Swann's DNA has not been compared to these profiles. Nor has Brian Maxey's. Nor Dale Lucas. Nor Timothy Roach, Joshua White, or J.F.. This is especially concerning because some of these individuals[10] DNA may already be in the CODIS system due to their criminal history, and thus, a search of CODIS could potentially produce conclusive answers in this case.

B. THE SLOVERS WERE CONVICTED BY JUNK SCIENCE

56. In addition to the DNA results that exonerate the Slovers, new evidence also shows the Slovers were convicted by a junk science house of cards. This house of cards consisted of buttons, rivets, dog hair DNA, grass, cinders, and concrete, and it completely collapses when subjected to scientific review and modern understandings of forensic science.

57. In the almost 22 years that have passed since the Slovers' trial, it is now known that junk science is a leading cause of wrongful conviction. In his book, *Junk Science and the American Criminal Justice System*, author and attorney M. Chris Fabricant states:

> Good science is objective; it has no stake in the outcome of the trial; it rests on research grounded in the scientific method, rather than simply 'training and experience.' Junk science *sounds* like science but there is no empirical basis for the 'expert opinion;' it is subjective speculation masquerading as science…

(*Id*. at 26).

58. This is exactly what happened in the Slover case to convict three innocent people. Witnesses who were deemed experts took the stand and subjectively speculated about evidence in the case without an empirical basis for their opinion. Even worse, the so-called expert testimony often *directly contradicted* the actual science, yet this evidence was still put on by the State, and it often went unchallenged by the Slover defense.

[10] For example, J.F. was convicted in 2018 of felony Criminal Trespass to Residence in Coles County. (Ex. 109). Timothy Roach was convicted in Tennessee of Aggravated Criminal Sexual Abuse of a Victim aged 13-16. (*See*, Ex. 110).

59. Developments in Forensic Science: 2009 NAS Report. Three years after the Slover trial, in 2005, Congress recognized the need for improvements in forensic sciences and authorized the National Academy of Sciences (NAS) to create an Independent Forensic Science Committee. (*See*, Ex. 111). The result of the work done by this committee was the 2009 report entitled *Strengthening Forensic Science in the United States: A Path Forward*. This report, referred to as the 2009 NAS Report, recognized that "testimony based on faulty forensic science", and "imprecise or exaggerated expert testimony" have led to the admission of inaccurate or misleading evidence and wrongful convictions. (Ex. 112). The 2009 NAS Report found that, aside from nuclear DNA analysis [not mitochondrial DNA analysis], no other forensic science has been shown to reliably support the "matching" of an item of unknown evidence, often from a suspect to an item of known evidence, often from a crime scene. (Ex. 113). The foundation of the Slover case was entirely this type of forensic evidence-so-called 'matching' of a piece of evidence from the crime scene to the Slovers. In 2009, this NAS Report started to chip away at the reliability of this type of evidence.

60. Developments in Forensic Science: 2016 PCAST Report. Then, seven years after the 2009 NAS Report, and 14 years after the Slover trial, a group of the nation's leading scientists and engineers, advised by a panel of legal experts, authored the President's Counsel of Advisors on Science and Technology (PCAST) report entitled *Forensic Science in Criminal Courts: Ensuring Scientific Validity of Feature-Comparison Methods*. (Ex. 114) (Ex. 115). This report was specifically created to evaluate the use of scientific feature-comparison evidence in courtrooms. Forensic feature-comparison methods were defined as:

> …the wide variety of methods that aim to determine whether an evidentiary sample (e.g., from a crime scene) is or is not associated with a potential source sample (e.g., from a suspect) based on the presence of similar patterns, impressions, features, or characteristics in the sample and the source.

(Ex. 116).

61. Some of the findings of the PCAST Report regarding forensic comparison methods included that expert testimony must be based on a method that has been empirically tested for its intended use, is repeatable, and that its accuracy rate is known. (Ex. 117 at 5). The Report goes further to state that, "without appropriate estimates of accuracy, an examiner's statement that two samples are similar — or even indistinguishable — is scientifically meaningless," has "no probative value" and "considerable potential for prejudicial impact." (*Id* at 6). The Slover case is ripe with this type of scientifically meaningless evidence, which has no real bearing on the Slovers' guilt or innocence but was prejudicial because it was presented to the jury as scientific fact.

62. The Report goes further to state that false positive and error rates must be known for a scientific method to have foundational validity. (Ex. 118). Without this, the fact that two items are similar has no value in determining someone's guilt or innocence. (*Id*. at 53). The PCAST Report illustrates this through a quote by Judge John Potter in an early DNA case, in *U.S. v. Yee*, 134 F.R.D. 161, 181 (N.D.Ohio 1991), stating:

> Without the probability assessment, the jury does not know what to make of the fact that the patterns match: the jury does not know whether the patterns are as common as pictures with two eyes, or as unique as the Mona Lisa.

(*Id.* at 54).

63. At the time of the Slovers' trial in 2002, the NAS and PCAST reports were not in existence. There was little understanding of feature comparison methods and their use in the courtroom. The testimony at the Slover's trial regarding feature-comparison evidence (*i.e*., grass, dog hair, cinders, concrete, buttons, rivets) included no error rates, no probability assessments. It did not include false positive rates. Nor was it demonstrated that the evidence was empirically tested or repeatable. Thus, this so-called evidence was, and still is, scientifically meaningless, has no probative value, was prejudicial, and should have never been presented to the jury.

63. The feature-comparison evidence used against the Slovers would not meet today's scientific standards. On top of that, the so-called scientific evidence presented at trial was so egregiously flawed that it did not even meet standards at the time of the trial.

C. LEGAL STANDARD

64. New DNA evidence excluding the Slovers and pointing to unknown male perpetrators, and the new NAS and PCAST reports on forensic comparison sciences, demonstrate that Michael Slover, Sr., Jeannette Slover, and Michael Slover, Jr. are innocent of the crime for which they were convicted.

65. It is well-settled that Illinois has no interest in wrongfully convicting innocent people. Indeed, to do so would be "fundamentally unfair" procedurally and would be "so conscience shocking as to trigger the operation of substantive due process." (*People v. Washington*, 171 Ill.2d 475, 488 (1996); *See also*, United States Const. Amends. V, XIV.)

66. A petitioner may bring a claim of actual innocence seeking reversal of their conviction. "To establish a claim of actual innocence, the supporting evidence must be (1) newly discovered, (2) material and not cumulative, and (3) of such conclusive character that it would probably change the result on retrial". (*People v. Robinson*, 2020 IL 123849, ¶ 47, 181 N.E.3d 37, 51; citing *People v. Edwards*, 2012 IL 111711, ¶ 32, 969 N.E.2d 829, 838; *People v. Coleman*, 2013 IL 113307, ¶ 96, 996 N.E.2d 617, 637; *Washington*, 171 Ill. 2d at 489).

67. "Newly discovered evidence is evidence that was discovered after trial and that the petitioner could have discovered earlier through the existence of due diligence." (*Robinson* ¶47, 181 N.E.3d at 51; citing *Coleman* ¶ 96, 996 N.E.2d at 637). "Material" evidence is anything "relevant and probative of the petitioner's innocence." (*Robinson* ¶47, 181 N.E.3d at 51). "Noncumulative" means that the evidence "adds to the information that the fact finder heard at trial." (*Id.*; citing *Coleman* ¶ 96, 996 N.E.2d at 637; *People v. Molstad*, 101 Ill. 2d 128, 135 (1984)).

To be "conclusive," the evidence "need not be entirely dispositive[.]" (*Robinson* ¶ 48, 181 N.E.3d at 51; citing *Coleman* ¶ 97, 996 N.E.2d at 638). "Rather, the conclusive-character element requires only that the petition present evidence that places the trial evidence in a different light and undermines the court's confidence in the judgment of guilt." (*Robinson* ¶ 56, 181 N.E.3d at 53). "Probability, rather than certainty, is the key in considering whether the fact finder would reach a different result after considering the prior evidence along with the new evidence." (*Id*. ¶ 48, 181 N.E.3d at 51).

68. Newly-discovered evidence, alone and in combination with the evidence presented at trial, and in this petition "establishes a substantial basis to believe that the defendant is actually innocent by clear and convincing evidence." 725 ILCS 5/122-1(a)(2).

69. **New**. First, the new DNA evidence and the new developments in forensic comparison sciences (applying to buttons and rivets; dog hair; cinders and concrete; and grass) are all newly-discovered evidence that could not have been discovered earlier by due diligence. This is because the advancements in DNA and forensic comparison science occurred after the 2002 Slover trial and, therefore, could not have been discovered by counsel before trial. For example, regarding forensic comparison sciences, the NAS Report was not published until 2009, and the PCAST Report not until 2016. These two reports demonstrate that the only forensic "matching" science that has a reliable and valid forensic scientific basis is that of nuclear DNA testing. Regarding the DNA evidence, this Court previously granted an order for this post-conviction DNA testing in which it was established, per Section 116-3 of the Illinois Code of Criminal Procedure (725 ILCS 5/116-3], that this method of testing was not scientifically available at the time of trial.

70. **Material**. This evidence is material because it is "relevant and probative of the petitioner's innocence." (*People v. Robinson*, 2020 IL 123849, ¶ 47, 181 N.E.3d 37, 51). The Y-

STR DNA found on garbage bags and duct tape with Karyn Slover's remains excludes the Slovers on one or more items of evidence. Moreover, the Y-STR analysis demonstrates that at least three unknown male perpetrators' DNA was present on these items. This evidence strongly supports that other individuals, and not the Slovers, committed this crime. The junk science testimony regarding buttons and rivets, dog hair, concrete and cinders, and grass were also material evidence. This is the foundation of the evidence that was used to convict the Slovers. Any new evidence that undermines the scientific foundation of this evidence is directly relevant to whether the Slovers committed this crime.

71. Had the fact finder known that the State's arguments and witness testimony, such as that of Richard Munroe and Dr. Joy Halverson, were unsupported by science, their credibility and other conclusions would have been severely undermined. "[W]here newly discovered evidence affects the credibility of the testimony of a material witness it would be a strong reason for granting a new trial" (*People v. Woodall*, 131 Ill.App.2d 662, 668 (Ill.App. 1970); citing *People v. Cotell*, 298 Ill. 207, 217 (Ill. 1921); *See also*, *People v. Tyler*, 2015 IL App (1st) 123470, ¶¶ 186, 189, 39 N.E.3d 1042, 1075-1076)(remanding post-conviction petition for third-stage hearing where evidence of systematic pattern of abuse by detectives could undermine their credibility)).

72. **Non-Cumulative**. New developments in forensic science, and new DNA evidence, are not cumulative to the evidence at trial. The defense did not present any DNA evidence in support of the Slovers' innocence. Nor did the defense utilize the NAS, PCAST reports, or any other new developments in forensic science on behalf of the Slovers, as these challenges did not exist at that time.

73. **Conclusive**. New developments in forensic comparison science, and new DNA evidence excluding the Slovers and implicating unknown perpetrators, are conclusive and create a

strong probability that the jury would have reached a different result had they heard this new evidence. In fact, this evidence alone entitles the Slovers to a new trial.

LEGAL CLAIM II: FALSE & MISLEADING EVIDENCE

74. Jeannette and Michael Slover, Jr. re-allege every paragraph of this petition and expressly incorporate them as if they were fully set forth herein.

75. The Slovers were convicted using a mountain of false and misleading evidence. This consisted of junk science, including the faulty forensic comparison of (1) cinders and concrete; (2) dog hair DNA, (3) buttons and rivets, and (4) grass. Other false and misleading testimony presented by the State included testimony from David Swann regarding Karyn Slover's black purse, and whether the windows of Swann's car, a Pontiac Bonneville with the license plates CADS7, were tinted.

A. LEGAL STANDARD

76. A conviction obtained through the knowing use of false evidence by the prosecution constitutes a denial of due process. (*Napue v. People of State of Illinois*, 360 U.S. 264 (U.S. 1959)). In this case, the prosecution used a mountain of false testimony and false forensic evidence to convict the Slovers. This false evidence infected the entire trial and deprived the Slovers of their due process rights.

77. In Illinois, "it has long been recognized that the deprivation of an individual's liberty based on false testimony is contrary to fundamental principles of fairness in a civilized society." (*People v. Cornille*, 95 Ill. 2d 497, 509 (1983)). "A conviction obtained by the knowing use of perjured testimony must be set aside if there is any reasonable likelihood that the false testimony could have affected the jury's verdict." (*People v. Olinger*, 176 Ill. 2d 326, 345 (1997), citing *United States v. Bagley*, 473 U.S. 667, 678-680 (1985)). This applies where "the State does not solicit the testimony but allows it to go uncorrected, even if the testimony only concerns the

credibility of the witness." (*People v. Junior*, 349 Ill. App. 3d 286, 290, 811 N.E.2d 1267, 1271 (2004); *Olinger*, 176 Ill. 2d at 345). "It is antithetical to our system of justice to refuse to grant a new trial for a defendant when it is convincingly established that he was convicted based on false testimony." (*Cornille*, 95 Ill. 2d at 507). "Once the defendant establishes the condemned use of false testimony, he is entitled to a new trial unless the State can establish beyond a reasonable doubt that the false testimony was immaterial in that it did not contribute to the conviction." (*Cornille*, 95 Ill. 2d at 514, citing *People v. Bracey*, 51 Ill.2d 514, 520 (Ill. 1972)).

78. To establish a *Napue* violation, the defendant must show that (1) the challenged testimony was actually false or created a false impression; (2) the prosecution knew that the testimony was actually false or created a false impression; and (3) the false testimony was material. (*Napue*, 360 U.S. at 269-72). The Supreme Court has "consistently held that a conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." (*U.S. v. Agurs*, 427 U.S. 97, 103 (1976)).

79. A defendant's right to a fair trial is violated when a prosecutor allows false or misleading testimony to be presented to the jury. (*See*, *Napue v. People of State of Illinois,* 360 U.S. 264 (U.S. 1959); *People v. Perkins*, 292 Ill.App.3d 624, 630-631, 686 N.E.2d 663, 668-669 (1997)). It is not necessary to find that a witness committed perjury to establish a due process violation. (*Perkins*, 292 Ill.App.3d at 632, 686 N.E.2d at 669; *People v. Nino*, 279 Ill.App.3d 1027, 1037, 665 N.E.2d 847, 853 (1996)). A defendant's right to a fair trial is violated if the State allows the jury to be misled by testimony. (*Perkins*, 282 Ill.App.3d at 632 (finding a due process violation where the testimony of two cooperating witnesses was "literally true," but the jury was nonetheless misled); *Nino*, 279 Ill.App.3d at 1037 (finding a due process violation even though it was unclear

whether the witness committed perjury because the witness "appeared in a misleading light, and his credibility before the jury was not impeached")).

80. To establish a violation of due process, the prosecutor actually trying the case need not have known that the testimony was false; rather knowledge on the part of any representative or agent of the prosecution is enough. (*People v. Brown*, 169 Ill. 2d 94, 103 (Ill., 1995)).

81. The prosecution in the Slover case used an egregious amount of false and misleading testimony and arguments to convict the Slovers, violating their due process rights which requires their convictions be overturned. This false and misleading evidence was present in numerous issues in the case and infected the entire trial. The issues included evidence associated with the dog hair DNA, cinders and concrete, buttons and rivets, tinted windows, and the location of Karyn's purse.

82. This is not the first time this prosecution in Macon County used false testimony to secure a conviction, and it would not be the first time this prosecution has had a case overturned because of it. In fact, in a case that went to trial a year before the Slover's trial, Assistant State's Attorney Richard Current was found to have used perjured testimony and not corrected it when it occurred, resulting in a burglary conviction and a ten year sentence being overturned. (*People v. Junior*, 349 Ill. App. 3d 286, 292, 811 N.E.2d 1267, 1272 (2004)). In *Junior*, Assistant State's Attorney Richard Current elicited testimony from a witness who denied receiving a deal for testifying for the prosecution; did not correct the testimony when it occurred; and then mentioned it in closing arguments. (*Id*.) All the while, ASA Current was previously on record in that witness's case explicitly stating the witness would receive less sentencing because of his cooperation. (*Junior*, 349 Ill. App. 3d at 290-292, 811 N.E.2d at 1272).

B. FALSE & MISLEADING EVIDENCE: JUNK SCIENCE

(1) Cinders and Concrete

83. One of the most flagrant uses of junk science in the Slover trial was the cinder and concrete evidence presented by the State via the testimony of former Canadian police officer Richard Munroe.

84. After Karyn Slover's murder went unsolved for years, law enforcement and the State's Attorney's Office turned to the fringe of science, including concrete and cinder comparison, to try and solve the case. Retired Decatur police detective Mike Beck told the press, "There were a lot of frustrating times in this case, but it was also exciting. We felt like we were on the cutting edge of a lot of things." (Ex. 119). The State certainly was on the edge of science, in fact, so close to the edge that they fell off altogether and landed squarely within the territory of junk science. This is evident in the cinder and concrete evidence the State presented at trial, which even their own expert admitted had never been done before.

85. The State's expert, Richard Munroe, admitted that forensic cinder comparison had never been done. (Ex. 67 at 2032).

> Q: Turning to the issue of cinders, give me the name of a person that you are aware of in the field of geology, just geology, not necessarily forensic geology at this point, but geology, who has taken a sampling of cinders that they know where they came from and did work on them to attempt to determine consistency or inconsistency of the cinders found in a body, on a body, around a body something like that?
>
> Munroe: No one.
>
> Q: So, you don't know how, if at all, the method you employed in this case would be generally accepted by people in your field, do you, with respect to the cinders, if you don't know of anybody who has done it?
>
> Munroe: No.

(*Id*.).

86. Munroe also testified that he was not aware of any other forensic geologist who had compared concrete in a criminal case. (Ex. 67 at 2024-25). Munroe did not point to any scientific

studies of forensic cinder or concrete comparison, nor accuracy rates, nor measures of reliability. In the time since the trial, there has not been a single known[11] criminal case in the United States in which cinder or concrete comparison has ever been used again. (*See*, Ex. 120; Ex. 121). What the State purported to be new, groundbreaking forensic science, never actually matured. Yet this experimental, speculative opining by Munroe was allowed as evidence to take away the freedom of three innocent people.

87. Munroe's embrace of junk science is fully evident in a 2023 review of his work from Microtrace, which found that "every level of the scientific process, as applied in this case, was flawed." (Ex. 122 at 11). This report was authored by Skip Palenik, the Founder and Senior Research Microscopist of Microtrace, LLC, and Dr. Christopher Palenik, a Ph.D. in Geology, who completed a Postdoctoral Fellowship with the Federal Bureau of Investigation, Forensic Science Unit, and has over one hundred publications and presentations. (Ex. 123) (Ex. 124). Munroe's testimony in the Slover case was the embodiment of junk science. It sounded like science, but Munroe had no empirical basis for his opinion; it was "subjective speculation masquerading as science." (M. Chris Fabricant, *Junk Science and the American Criminal Justice System*, 26 (2022)).

88. In their report, Mictrotrace stated that while the court found Munroe used generally accepted scientific techniques of visual inspection, light microscopy, and x-ray diffraction, the court never examined whether those techniques were *accurately* used by Munroe in the Slover case. (Ex. 122 at 5). Microtrace further found that Munroe did not have theoretical or practical support for his conclusion that the concrete found with Karyn Slover's remains was the same as that found on the Slovers' property. (*Id*.). There is no "rigorously validated, quantitative method that was carefully explored over a period of years" used to support the forensic concrete

[11] Searches for "forensic concrete" and forensic cinder" in all federal and state criminal cases were completed on Westlaw, with zero results for each search. *See*, Exhibits 120 and 121.

comparison made by Munroe. (*Id*. at 6). Further, Microtrace states there is "*no known analytical methodology*" of concrete comparison that *even exists* in the scientific community to support Munroe's conclusions. (*Id*.) (emphasis added). Further, Munroe did not demonstrate that the methods he used were even capable of distinguishing amongst concrete to that level. (*Id*.).

89. Microtrace further described the x-ray diffraction and light microscopy techniques applied by Munroe as "casual," "with minimal effort," and "incorrect." (*Id*. at 6-8). Shockingly, Microtrace also found the peaks in x-ray diffraction Munroe used to state the concrete found on the Slover property was the same as that found with Karyn's body, were just peaks of some of the most common minerals used in concrete in Illinois. (*Id*. at 7). Beyond that, Microtrace found that there were differences between the pieces of concrete compared by Munroe, which Munroe ignored, yet would have been "apparent upon even a cursory inspection of the data by a qualified observer." (*Id*. at 8). This difference was never discussed by the prosecution or the defense at trial. (*Id*.).

90. There were just as many problems with Richard Munroe's analysis of the cinders. For example, one claim made by Munroe had "absolutely no scientific study or paper supporting this statement" and was "an off-the-cuff response," "provided without any background or study of the subject." (*Id*. at 9). Munroe's cinder analysis did not include any measurements, counting, or the identification of any specific minerals. (*Id*.). With that type of analysis, "it is certainly not possible to form conclusions that a sample is 'unique.'" (*Id*.). Interestingly, Microtrace pointed out that the very reason Munroe stated he could not perform a more detailed analysis of cinders was that it would destroy the evidence sample, yet the test needed – scanning electron microscopy – was not a destructive method. It would not have required any additional destructive work than was already done by Munroe when he prepared microscopic slide[s] of the cinders. (*Id.* at 9-10).

91. In addition to the catastrophic flaws in Richard Munroe's application of these methodologies, the way Munroe spoke in court about his analysis and the evidence in the case presented additional problems. Richard Munroe frequently overstated and misled the jury when testifying about evidence. He used statements that were "not supported by either statistics or science." (*Id*. at 10). Examples include when Munroe stated, in his concrete comparison, that they were the "same cement," and that concrete trowel marks had "unique features." (*Id*. at 10). Regarding this, Microtrace states:

> For instance, the term 'unique' implies that there is nothing else like this in the world, and, of course, since these analyses had not been previously performed, there is no literature or study to support such a level of specificity.

(*Id*. at 10-11).

92. In summary, Microtrace found that the methodology used by Richard Munroe was "not scientifically established," there was a lack of "the fundamental hallmarks of a valid scientific analysis," interpretation in key areas was "incorrect," and that Munroe was misleading and overstated the significance of his findings. (*Id*. at 11).

93. There were a myriad of false and misleading statements made by Richard Munroe regarding cinder and concrete comparison. These statements were made to sound conclusive by someone deemed an expert but were in actuality devoid of any real scientific support. The Microtrace Report details many instances of this but notes that there were "certainly more examples and further shortcomings [of Richard Munroe's analysis] that could be discussed further." (*Id.*). The absolute plethora of false, misleading, and incorrect information testified to by Richard Munroe was astonishing and unacceptable.

94. It was false when Richard Munroe testified that the concrete found at Miracle Motors and the concrete found with Karyn's body were the "same cement." (*Id*. at 5). Microtrace found that there was neither theoretical, nor practical support for this statement. (*Id*.). Microtrace further

explained that the goal of pouring concrete is often to create batches, or truckloads, with maximum consistency that is indistinguishable from each other. (*Id*.). Even though it is theoretically possible that there could be minute differences between the batches of concrete, from a forensic perspective, the differences must be detectable and scientifically significant, and Richard Munroe's approach was not capable of detecting this. (*Id*.). Beyond this, there is "*no known analytical methodology* that can provide the level of specificity testified to by Munroe." (*Id*. at 6) (emphasis added). Therefore, not only did Richard Munroe not utilize a proper methodology for his conclusion that the cement was the same—there is *not even one that exists* that he could have used. (*See, Id*. at 5-6).

95. Another "incomplete and arguably misleading" claim by Richard Munroe was his response when asked directly which methods he used to examine the concrete. (*Id.* at 6). Munroe replied vaguely about the available methods, and tools that were used in the scientific community. Munroe implied that he used, or could have used all of them, yet only used light microscopy and x-ray diffraction. (*Id*.). However, those techniques were not even utilized to the degree to produce the type of results to which Munroe testified. (*Id*.).

96. Munroe justified his conclusion that the cement found at Miracle Motors was uniquely similar to the cement found with Karyn Slover's body because both had peaks within the x-ray diffraction patterns at 18 and 34 degrees. (*See,* Ex. 125). However, Microtrace found that "even a casual examination" shows that these peaks are consistent with calcium hydroxide, which is a curing product for cement, and was "certainly not 'unique' or particularly unusual." (Ex. 122 at 7). Thus, this statement by Munroe that similar peaks at 18 and 34 degrees are unique findings within concrete examination is objectively untrue.

97. The falsehoods did not end there. Munroe went on to talk about other similar peaks in

the X-ray diffraction technique which he used to justify his conclusion that the cement was forensically the same unique cement. (*Id*.). Yet Microtrace points out that these peaks are identifiable to specific minerals, such as quartz, calcite, and dolomite, which are some of the most common minerals in concrete in Illinois. (*Id*.). To even detect a difference among these minerals would, therefore, require a quantitative analysis, which was never conducted by Munroe. (*Id*.).

98. For concision and clarity, additional false and misleading testimony by Richard Munroe is listed below:

Claim by Munroe	Why the Statement was False
The surface texture in the concrete at Miracle Motors and the concrete with the victim's body is "highly significant statistically and scientifically."	There is no evidence that critical analysis of these features, or statistical tests of the data, were conducted by Munroe.
The weathering profile in the concrete at Miracle Motors and the concrete with the victim's body is "highly significant statistically and scientifically."	There is "no data, no study, no articles, no indication that other concrete surfaces were studied" to support that this was unique compared to other concrete in the world.
The cinders located at Miracle Motors were highly consistent with cinders with the crime scene.	"No credible scientific (neither mineralogical, chemical, microscopical or geological) evidence was offered" to support this.
The cinders found at Miracle Motors were of a "fairly unique nature."	"No credible scientific (neither mineralogical, chemical, microscopical or geological) evidence was offered to support" that the sample was unique.
Munroe can distinguish between cinders that had the same source of coal and limestone in a production plant deposited at one hundred different locations.	"There is absolutely no scientific study or paper supporting this statement. There is no statement [Munroe] ever critically studied cinders. This appears to be an off-the-cuff response that is provided without any background or study of the subject."
Further analysis of the cinders was not conducted because the technique was destructive.	Scanning electron microscopy is not a destructive technique.

(*See*, *Id.* at 8-13).

99. The prosecution knew or should have known that this evidence created a false impression of the Slovers' guilt. Munroe admitted he had never compared cinders forensically and that he had only ever compared concrete forensically in a few cases. Munroe produced no scientific studies, no peer-reviewed articles, no journals, nor any empirical support for his conclusions. Yet the prosecution elicited and facilitated the presentation of this evidence, creating a false impression that the concrete and cinders from the crime scene matched the concrete and cinders from the Slover property.

100. This evidence was certainly material to the case. Richard Munroe opined for more than three hundred pages of testimony. His testimony was about not just one, but two pieces of key comparison evidence – cinders and concrete. Among these two types of evidence, Munroe even used several varied reasons to state they were similar – weathering patterns, texture marks, and peaks in x-ray diffraction. (*See, e.g.,* Ex. 67 at 2112-15, 2136-37). This testimony was central to the prosecution's case state-in-chief, and as Microtrace pointed out in their report, it is likely the jury "would be improperly swayed to give greater weight to the reported associations than they deserved because of the certainty with which this witness presented them." (Ex. 122 at 11). Further, in a case in which there was no DNA evidence, no eyewitnesses, no confession, and no murder weapon, faulty and deceptive scientific testimony that is beyond the scope of the average juror's knowledge is especially powerful and persuasive evidence.

(2) Dog Hair DNA

101. The dog hair DNA evidence in this case was equally problematic. In fact, since the time of the Slover trial, courts in two other states expressed caution about the use of canine DNA testimony by the same expert, Dr. Joy Halverson, who testified in the Slover case. (*See*, *State v. Leuluaialii*, 118 Wash. App. 780, 77 P.3d 1192 (2003); *Com. v. Treiber*, 632 Pa. 449, 121 A.3d

435 (2015)).

102. In October 2003 in *Leuluaialii*, the Court of Appeals of Washington found that "the study of canine DNA has not progressed to the point of the study of human DNA sufficient to permit an expert to testify to a match between a sample and a specific dog." (*Leuluaialii,* 118 Wash.App. at 782, 77 P.3d at 1194). This case involved the same expert – Dr. Joy Halverson – who testified just a few months prior in the Slover case. (*See*, *Id*. at 3). In *Leuluaialii*, several expert witnesses "vehemently contested" DNA markers used by Dr. Halverson, finding her errors were "pretty severe." (*Leuluaialii,* 118 Wash.App. at 793, 77 P.3d at 1199). In response, Halverson stated she would soon publish studies regarding this, but never produced them, even when requested by the court. (*Leuluaialii,* 118 Wash.App. at 793-4, 77 P.3d at 1199-1200). The *Leuluaialii* court issued a warning for other courts that they should "tread lightly in these waters and closely examine canine DNA results before accepting them at trial." (*Leuluaialii,* 118 Wash.App. at 796, 77 P.3d at 1201).

103. In 2015, Dr. Joy Halverson was an expert in a case in Pennsylvania. (*Com. v. Treiber,* 632 Pa. 449, 121 A.3d 435 (2015)). In *Trieber*, the defense provided testimony from three experts that Dr. Halverson's methodologies and practices were not generally accepted within the scientific community. (*Treiber*, 632 Pa. at 531, 121 A.3d at 484). In deciding the case, the Supreme Court of Pennsylvania never ruled on whether Dr. Halverson's canine DNA evidence was sufficient, stating the outcome of the case would not have been different had the evidence been excluded. (*Treiber*, 632 Pa. at 477, 121 A.3d at 451).

104. The dissent in *Trieber* issued an opinion finding numerous problems with Dr. Halverson's work, even stating the defendant's conviction should be overturned because of it. (*Treiber,* 632 Pa. at 544, 121 A.3d at 492 (C.J. Saylor, dissenting opinion)). One issue pointed out

that Dr. Halverson testified the DNA markers she used were scientifically validated, but that the validation was just within her private laboratory. (*Treiber,* 632 Pa. at 531, 121 A.3d at 484). Dr. Halverson admitted that some of her other opinions in the case could not be scientifically verified and the court would just have to 'take [her] word for it.' (*Id*.) The dissent also noted that reports produced after the trial showed that Dr. Halverson's conclusions were reached based on low template quality DNA, not the high-quality template DNA the Court previously assessed, and that this warranted even further scrutiny. (*Treiber,* 632 Pa. at 536, 121 A.3d at 487). The Court also referred to Dr. Halverson's "utilization of unstudied proprietary genetic markers, a database of convenience, and unverified statistical measures." (*Treiber,* 632 Pa. at 538, 121 A.3d at 488). Finally, the dissent said the trial court was wrong to admit this evidence by equating human DNA to this "unstudied, uncontrolled infrastructure for analyzing low template, non-human DNA." (*Treiber,* 632 Pa. at 540, 121 A.3d at 489).

105. In addition to *Leuluaialii* and *Trieber*, Dr. Halverson's work was heavily criticized in a 2005 Wisconsin murder case in which the defendant, Evan Zimmerman, was eventually exonerated. (*See*, Ex. 126). Just two days after Dr. Halverson was cross-examined by the defense, the State of Wisconsin dropped all charges against the defendant. (*See*, *Id*.; Ex. 127).

106. During that cross-examination, Dr. Halverson made numerous admissions about the quality of her work. Dr. Halverson testified she was a doctor of veterinary science, not a geneticist or a statistician, and that her DNA training was acquired "basically on the job." (Ex. 127 at 226). Dr. Halverson admitted that her main source of income was determining the sex of birds. (*Id*.). She admitted that her work in another case was reviewed by Dr. Mitchell Holland, who wrote in his report that her laboratory was "not a forensic laboratory." (*Id*. at 228). Furthermore, Dr. Halverson admitted her laboratory was not accredited, stating it was not "worth the trouble." (*See,*

Id. at 228-29, 234-35). She admitted she had no supervisor, no outside proficiency testing, was not audited, had no external controls, and that she was her own quality assurance organization. (*Id*. at 237-40).

107. Dr. Halverson made many other astonishing admissions in the *Zimmerman* case. Dr. Halverson admitted she did not have logbooks or a system for checking the temperature of her refrigerator, even though she agreed it was important to store samples and materials at the required temperatures. (*Id*. at 238-39). Dr. Halverson testified she had problems in the case, including a possible gel problem and a pipetting error. (*Id*. at 267-68). In addition, Dr. Halverson also admitted when she ran a control test of human DNA, her results came back incorrectly as dog DNA, not human DNA. (*Id*. at 269). Dr. Halverson admitted this showed contamination. (*Id*. at 269-270). Dr. Halverson also admitted errors in her statistical calculations, stating she was "not a statistician." (*Id*. at 273, 285). She admitted the database she used to generate the DNA statistics was a database of convenience, not done by true random sampling, and that no other laboratory used this database. (*Id*. at 276-78). In addition, Dr. Halverson also admitted that another court found the science she relied on was not adequately established for use in a court of law. (*Id*. at 296).

108. In addition to the new cases criticizing Dr. Halverson's work since the time of the Slover trial, for the first time, another DNA expert has reviewed the work of Dr. Halverson in the Slover case. This was not done by the Slover defense at trial; the Slover defense only had a statistical expert review the probabilities Dr. Halverson used. The defense never had anyone review Dr. Halverson's work on the basic steps of DNA analysis: DNA extraction, quantification, analysis, and interpretation. Dr. Sreetharan Kanthaswamy, a Research Geneticist at the California National Primate Center, University of California, Davis, and a Professor in the School of

Mathematical and Natural Sciences at Arizona State University, has reviewed Dr. Halverson's work. (Ex. 128). He found, unsurprisingly, that it was "plagued by several problems," that the forensic analysis was done in a "trial and error, i.e., experimental manner" in this homicide case, and that "several major issues with [Dr. Halverson]'s analysis should have prevented the admission of her canine DNA evidence". (Ex. 129 at 3-4).

109. Like the cinder and concrete forensic comparison evidence, the problems with canine DNA forensic comparison evidence is plentiful. First, Dr. Kanthaswamy points out that the reference samples Dr. Halverson used—brushed dog hairs—were not appropriate, and that plucked hairs, blood, or cheek swabs should have been used instead. (*Id.* at 1). Dr. Kanthaswamy pointed out that one of the problems with testing DNA from brushed dog hairs is that dogs lick each other, and, thus, can cross-contaminate the DNA. (*Id*.). Even though Dr. Halverson testified that she knew dogs groomed by licking each other, she failed to have a decontamination step in her protocol and only added this step after realizing this may have caused her inconsistent results. (*Id*.). Dr. Kanthaswamy's report suggests Dr. Halverson had a trial-and-error approach to forensic analysis and did not have a standard operating protocol (SOP). (*Id*.).

110. In addition to the issues with the DNA samples and extraction, Dr. Kanthaswamy also points out that there is no evidence Dr. Halverson ever quantified her DNA samples, even though this is "critical for successful and reproducible DNA amplification and STR profiling." (*Id*. at 1, citing Nicklas et al. 2001). This quantification step is required by the FBI's Quality Assurance Standards in human DNA testing and determines if there is even enough DNA obtained to proceed with further analysis. (*Id*. at 1-2).

111. Further, Dr. Kanthaswamy describes other problems, including: that an allelic ladder was not used during electrophoresis, the DNA markers Dr. Halverson used were not

validated for forensic use, and her forensic testing protocols have not gone through an external, nor internal peer review. (*Id*. at 2). In addition, Dr. Halverson relied on the PEZ20 DNA marker despite this marker having "well-known problems". (*Id*.).

112. More problems were identified in Dr. Halverson's data interpretation and use of databases and statistics. For the interpretation, Dr. Halverson made a Random Match Probability (RMP) calculation with four common alleles, or five if PEZ20 is included, even though this should have been used for exclusionary purposes only. (*Id*. at 2-3). Dr. Kanthaswamy criticizes the database Dr. Halverson used to develop her statistics because the dogs in the database were not geographically diverse, and they were all purebred dogs, and thus may have been irrelevant to the dog population in the Slover case in central Illinois. (*Id*.) It is further shown that Dr. Halverson used an "inappropriate RMP equation because she wrongly believed that outbred dog populations do not have structure/inbreeding" and did not follow the National Research Council Recommendations (NRC 1996). (*Id*.) Dr. Kanthaswamy states that both Dr. Halverson, and the defense statistical expert, Dr. Christopher Basten, did not use the correct database, and both should have used a local population of dogs relevant to the case. (*See, Id*.)

113. The robust problems outlined by Dr. Kanthaswamy in his report demonstrate that Dr. Halverson made key mistakes at every step of DNA analysis, her methodology and procedures were not empirically supported, and she deviated from accepted scientific protocols. As such, this use of canine DNA evidence in the Slover case was junk science – testimony that "sounds like science but there is no empirical basis for the 'expert opinion'." (*See*, *Id*.; *Supra*, 23).

114. The State presented statements that created a false impression regarding canine DNA. First, Dr. Halverson used a Random Match Probability (RMP) analysis to calculate the odds the Slover's dog hair would match the dog hair in evidence (*See,* Ex. 73 at 2464). Dr. Halverson's

concluded the odds to be 1 in 56,227. (*See*, *Id.* at 2590-91). This testimony created a false impression with the jury that this was a match, and that sharing these alleles was sufficient to individually identify the Slovers' dog. However, even if there were a valid match at four or five alleles, this information is only enough to exclude samples from a match; it is not scientifically supported to generate a match, or an RMP figure, from this analysis. (*See*, Ex. 129 at 3, stating the partial match should have been used for exclusionary purposes only).

115. Next, Dr. Halverson operated under the incorrect assumption that the local dog population in central Illinois was in Hardy-Weinberg Equilibrium (HWE); however, this was not accurate. (*See*, *Id.* at 3). She then incorrectly calculated an RMP equation based on her unsupported belief that the relevant dog population did not have inbreeding. (*Id*.). The foundation of Dr. Halverson's testimony was based on her "lack of knowledge of canine population genetics." (*Id.*). Dr. Halverson herself has admitted that she was not a geneticist and not a statistician. (*Supra*, 40). Yet that fact did not stop Dr. Halverson from testifying to false, incorrect information.

116. The prosecution knew or should have known, that this evidence created a false impression of the Slovers' guilt. The fact of the matter was that Dr. Halverson was not a geneticist, not a statistician, only had on-the-job training in canine DNA testing, had no internal or external review, had no SOP, first got results that were the product of contamination, used a partial match to calculate RMP, and used a non-random database. These were all red flags. This would have alerted a competent prosecutor that the testimony was unreliable and created a false impression of guilt.

117. This evidence was material to the case because forensic evidence, especially DNA evidence, is often held out as the gold standard in prosecution. The State likened the use of this dog hair DNA testimony in the Slover case to that of DNA identifying the victims of the September

11th attacks. (Ex. 78 at 35-36). This statement was especially inflammatory, and created a false impression, considering the Slover trial happened in April of 2002, just nine months after the September 11th attacks occurred. In closing, the prosecution stated:

> Now Dr. Halverson testified, and you probably heard more about DNA than you would ever care to know about, but what caught your ears as she first started? What is DNA used for? DNA is used to identify dead American soldiers. DNA is used to identify those body parts, over 28 hundred, from the World Trade Center, both of them when they came tumbling down, and then you knew, hey, there's something to this DNA. Well there certainly is.

(*Id*.).

118. This inflammatory statement provided an incorrect and inaccurate comparison between using human STR DNA technology, which has been studied robustly, to that of forensic canine DNA analysis, which courts in other states have found not sound enough to be admitted in a criminal prosecution.

(3) Buttons & Rivets

119. A third area of forensic comparison science improperly used in the Slover case was the buttons and rivets evidence. The State took innocent, routine items associated with the Slovers' car lot business, and used misleading testimony and data to suggest that those items were evidence of murder.

120. As mentioned earlier, during a search of the Slovers' car lot, there were numerous partial items of clothing, including zippers, Wrangler jean labels, buttons, and fasteners, found on the Slover car lot. (*Supra*, 18). This was because the Slovers' purchased used, undetailed cars at auction, burned the debris left in the undetailed cars, and then re-sold the vehicles out of the Miracle Motors car lot.

121. The State presented the testimony of forensic scientist Suzanne Kidd, who testified that, with a reasonable degree of scientific certainty, the rivets and metal button found on the Slover

property were consistent in class characteristics and could have originated from the same pair of jeans worn by Karyn Slover. (*Supra,* 15). Suzanne Kidd testified similarly about a cloth button found on the Slover properly—that it was consistent in class characteristics and could have originated from the same blouse worn by Karyn Slover. (*Supra*, 15). Further, the State called witnesses from the textile industry, presenting figures about the number of jeans, buttons, and rivets produced. (*See*, *e.g*., *Supra*, 15; Ex. 69 at 2323). In closing arguments, the State emphasizes that among the type of jeans Karyn wore, only 1,250 of them were size seven tall, suggesting that the buttons and rivets from the Slover property were one of 1,250. (*See,* Ex. 78 at 42-43).

122. The bulk of the testimony presented regarding the buttons and rivets was confusing, irrelevant, misleading, and simply inaccurate. Because the total[12] number of buttons and rivets produced was known, a probability can actually be calculated regarding whether those buttons and rivets belonged to Karyn Slover, versus the probability they did not. That probability is staggeringly in support of the Slover's innocence.

123. In fact, an expert in forensic statistics, Dr. Maria Cuellar, was able to calculate this. Dr. Maria Cuellar has a Ph.D. in Statistics and Public Policy, and is an Assistant Professor at the Criminology Department, and in the Statistics and Data Science Department, at the University of Pennsylvania. (Ex. 130 at 1). Dr. Cuellar reviewed this case and found that, out of 1.0, the odds that the rivets came from Karyn's clothing is .0000004, and the odds that the buttons came from Karyn's clothing is .0000003. (Ex. 130 at 7). Dr. Cuellar was able to calculate this because there was testimony from the State at trial that the total number of rivets produced was 4,898,000, two of which were on the Slover property. (*Id*. at 5) (*See*, Ex. 131). And the number of buttons produced

[12] The figures of buttons and rivets used are conservative estimates, as this does not count all rivets ordered in the garment industry in that area, nor does it consider that the button and rivet company could have additionally sold these items to other suppliers. (*See*, Ex. 23 at 4, 5).

was 3,508,000, one of which was found on the Slover property. (Ex. 130 at 6) (*See*, Ex. 131 at 2292). No such probabilities can be generated for the cloth button found on the property, as that type or brand of button was never identified, nor were any figures ever provided. (Ex. 130 at 8).

124. In developing these probabilities, Dr. Cuellar used the likelihood ratio, which is "a balanced, logical, and transparent way for triers of fact to assess the strength of the evidence presented in a quantitative way." (*Id.* at 3). Dr. Cuellar's methods and conclusions are based on expert guidelines and scientific literature. (*See*, Ex. 130, generally). This analysis allows a jury to understand, as Judge John Potter would put it, if the buttons and rivets were "as common as pictures with two eyes, or as unique as the Mona Lisa." (*See*, *Supra*, 25). In this instance, based on valid and reliable forensic science, there is "very strong support for the defense hypothesis over the prosecution hypothesis from the rivets and buttons evidence found at the crime scene." (Ex. 130 at 7).

125. Not only was this scientifically supported evidence not presented at the Slover trial, but the issue of the buttons and rivets was framed in a misleading and incorrect manner. The prosecution suggested these buttons and rivets were from just 1 in 1,250 pairs of jeans, size seven tall. (*Supra,* 15). However, there was absolutely no evidence to suggest that these buttons and rivets, specifically, came off a size seven, a tall size, or even a pair of jeans. These buttons and rivets on the Slover property were from a batch of millions of buttons and rivets, which were on various sizes of clothing, and various items of clothing. To suggest otherwise was intentionally misleading, incorrect, and confusing to the trier of fact.

126. The prosecution's tactics in framing the button and rivet evidence is a phenomenon that has been studied, has a name, and has contributed to other wrongful convictions. This phenomenon is known as "the prosecutor's fallacy." (Ex. 130 at 8). Dr. Cuellar states that the

Slover case is "a classic example" of this phenomenon, stating: "[d]ue to this fallacy in reasoning, highly improbable innocent explanations have led to the assumption of guilt. (*Id.*, citing Taylor 2018). She further cites two examples of wrongful conviction – Sally Clark in 1999 and Lucia de Berk in 2003 – that were the result of this fallacy. (*Id*.). In presenting this button and rivet evidence against the Slovers, Dr. Cuellar states, "statements made by the prosecution *exceeded what can be supported empirically*." (*Id*.). (emphasis added).

127. The State misled the jury that the buttons and rivets on the Slover property were from the 1,250 pair of size seven tall jeans, and not from the batch of millions of buttons and rivets. This was done knowingly and purposely. The State presented several witnesses, from at least three different companies, who testified on this issue of the buttons and rivets. The State had access to both the correct figures—the 4,898,000 and 3,508,000 figures—and yet, instead, chose to use and highlight the smallest figure given -– the one that was incorrect and misleading, but created the strongest presumption of guilt. (*See, Id.* at 5-6).

128. This evidence was material, as the State spent a significant amount of time presenting this issue to the jury and discussing it in their closing. It was also material, as it implied that there was no logical, innocent reason for the buttons and rivets to be at the Slover property. Had this false and misleading evidence not been presented to the jury, there is at least a "reasonable likelihood" that it "affected the jury's verdict." (*See*, *People v. Olinger*, 176 Ill. 2d 326, 345 (1997), citing *United States v. Bagley*, 473 U.S. 667, 678-680 (1985)).

(4) Grass

129. The State also used forensic comparison science by presenting evidence that grass on the Slover property was consistent with some types of grass found with Karyn's remains. Curiously, the State presented this evidence even though the Slovers' property only contained two

of the three types of grasses found with Karyn's remains. (*See, Supra* 15-16.) Meanwhile, the defense was able to elicit that the State's own expert had all three types of grass in his own yard. (*See*, *Supra* 15-16).

130. Specifically, foxtail, nimble will, and switchgrass were found with Karyn's remains. (Ex. 72 at 1778). At the trial, the State's expert Professor Thomas Voigt testified that in 1999—which was three years after Karyn Slover's murder, and one year after the Slovers *no longer owned* the Miracle Motors property—he found foxtail and nimble grass, but not switchgrass, present on the property. (*See*, *e.g.*, *Id.* at 1781; Ex. 132). The State tried to argue that switchgrass *could have* been growing there at the time, stating disease, weather, and other factors can cause the grass population to change over time. (Ex. 72 at 1782).

131. With the presentation of this grass evidence, the State went even further beyond forensic comparison science to include even *non-matches* as evidence of guilt. Just the *possibility* that there could have been a so-called "match" was enough for the State.

132. The entirety of the prosecution's use of "grass evidence" at trial was intentionally misleading to the jury. The State's own expert testified that the former Miracle Motors property did not even have all the types of grass found with Karyn's remains. Yet the State chose to call a witness with a PhD to testify to expert knowledge of grass, when in fact, the grass evidence was not even a "match" to the Slovers. This was confusing and invited the jury to illogically see expert grass testimony as evidence of guilt.

B. FALSE & MISLEADING EVIDENCE: DAVID SWANN TESTIMONY

(1) Tinted Windows

133. In addition to the junk science, false and misleading testimony was presented against the Slovers at trial. This false and misleading testimony was used to try to completely

discredit several defense witnesses who saw the Pontiac Bonneville CADS7 car the night Karyn disappeared. The State even mockingly referred to the testimony of these witnesses as the "Elvis sightings." (*See,* Ex. 133 at 148).

134. It is undisputed that Karyn Slover left the *Herald & Review* building at approximately 5:05 pm on Friday, September 27, 1996. Where Karyn went after that is a matter of dispute and a critical fact that led to the conviction of the Slovers. The State's theory was that Karyn left work and went straight to the Mt. Zion property of Michael Slover, Sr., and Jeannette Slover to pick up her son, Kolten, before going to the mall to look for a dress for a wedding the next day. However, the State was unable to present any witnesses that placed Karyn in Mt. Zion after 5:00 pm on September 27, 1996.

135. The defense's theory was that Karyn left the Decatur *Herald & Review* and drove towards Champaign taking the back roads through Cerro Gordo. The defense presented testimony of several witnesses who claimed to have seen the car Karyn was driving in and around Cerro Gordo immediately after leaving work. (*Supra,* 17-18). The car was recognizable to the witnesses because it was a dark-colored Pontiac Bonneville with a unique license plate, CADS7. (*See, e.g.,* Ex. 134 at 3007; Ex. 135 at 145, 149). Some of these witnesses further identified the car as having tinted windows. (*See, e.g.,* Ex. 34 at 3011; Ex. 135 at 151-52).

136. A central issue in the case became whether the car, which was owned by David Swann and driven by Karyn Slover that night, had tinted windows. The State presented the testimony of David Swann that his car windows were "factory clear" and ridiculed the defense witnesses who said the car they saw had tinted windows. (*See, e.g.,* Ex. 79 at 1564-65; Ex. 134 at 3021-24). The fact of the matter is that David Swann's car had factory-tinted windows; the type of tinting was described accurately by defense witnesses; and the timing of the sighting was

consistent with Karyn Slover leaving work and driving towards Champaign. The State offered David Swann's false and misleading testimony to create a fact in controversy where no such controversy existed.

137. Mark Camper, a student who worked with the Illinois Innocence Project (formerly the Downstate Illinois Innocence Project), read the testimony described above and investigated whether the CADS 7 car owned by David Swann had tinted windows. As part of his investigation, Mr. Camper contacted Albert J. Brown, a service advisor at S&K Pontiac GMC, to determine if records were available to show whether the CADS7 car had tinted windows. (*See*, Ex. 136).

138. Mr. Brown was able to access the computer database at Pontiac and determined the original equipment of automobiles built by Pontiac. (*See,* Ex. 137). The CADS7 car had factory-tinted windows. (*Id.* at 2). This particular car was manufactured with a green tint in all its windows, including rear, front, and side windows. (*Id.*). Mr. Brown also reviewed the testimony of Vicki Gagnon (below) and determined that the description of the car as having light tinting was accurate. (*See, Id.* at 2-3).

139. Further investigation has revealed that the tinted windows in the CADS7 car were "EZ Cool" tinted windows. (*See,* Ex. 138). In addition, the current owners of the CADS7 car were located in New Tazewell, Tennessee and they indicated the car had tinted windows. (*Id.* at 2).

140. In its case-in-chief, before the introduction of any evidence that Ms. Vicki Gagnon reported seeing the CADS7 car and that it had tinted windows, the State's Attorney Jack Ahola, questioned David Swann extensively about whether the car had tinted windows. When asked directly if it had tinted windows, Swann stated, "No, sir it did not." (Ex. 79 at 1517). Then when asked about pictures of the vehicles' windows, Swann stated, "…on the back window you can see that it is partially open, and you notice that they are not tinted windows." (*Id.* at 1541). Yet again,

the State's Attorney asks directly, "And that shows an absence of any tinted windows?" to which David Swann states, "That is correct." (*Id.*)

141. On cross-examination, David Swann repeats that the windows on his 1992 Pontiac Bonneville with license plate CADS7 did not have tinted windows. Swann was asked what color the windows were, to which he stated, "factory color." (*Id.* at 1564-65). Swann denied that it was a smoky color; he described the window color as "clear." (*Id.*)

142. In attempting to establish that Karyn Slover did not go to the Slover residence as the State had theorized, defense counsel presented the testimony of several witnesses who saw the car Karyn was driving between Decatur and Champaign on the evening of September 27, 1996. (*Supra,* 18-19). Perhaps the most critical of these witnesses was Vicki Gagnon, a school bus driver who knew precisely the time frame she would have seen the car, around 5:25 p.m., which would mean that Karyn could not have gone to the Slover residence after work that day. Vicki Gagnon testified she was driving a school bus taking football players to a game in Bement, IL. (*See,* Ex. 134 at 2999-3001). Ms. Gagnon knew what time she left the high school because she stated the coach was very punctual, and she had to keep track of her time to get paid. (*Id.* at 3002). Ms. Gagnon testified that as she drove on IL-105 around Milmine Road, a car with the license plate CADS7 passed her "going pretty fast." (*Id.* at 3006-07). She estimates this time was 5:25 p.m. (*Id.* at 3008). Ms. Gagnon stated she noticed the windows were tinted, stating they were "darker; not real dark but they were tinted." (*Id.* at 3011).

143. After this testimony, the State aggressively cross-examined Vicki Gagnon about the tinted windows, even showing her carefully selected photos of the car. (*See, e.g., Id.* at 3021-24). Through this intense cross-examination, the State attempted to persuade the jurors that Ms. Gagnon must have seen a different car. (*See, Id.*). The car she testified to seeing had tinted windows

and the State tried to make everyone in the courtroom believe that the windows in David Swann's car were not tinted. (*See, Id.*). The State tried to accomplish this goal, first through the false and misleading testimony of David Swann, and then through the use of carefully selected photographs of the car to try and discredit the testimony of Vicki Gagnon. In reality, the testimony of David Swann was false, and the carefully selected photos used by the State were misleading.

144. A second witness, Mr. David Requarth, described seeing the CADS7 car between 7:45 and 8:00 P.M. at a rest stop on I-72 East between Decatur and Champaign, and he described the car as having tinted windows. (*See,* Ex. 135 at 141-42, 145-52). Mr. Requarth testified that the CADS7 car pulled into the rest stop, and he was unable to see into the car because the windows were tinted. (*See, Id.* at 145, 149-50.) The State attempted to cross-examine Mr. Requarth in the same manner as they did with Ms. Gagnon. When Mr. Requarth was shown the same photos presented to Ms. Gagnon, he was asked how the windows were different from the car he saw. He testified repeatedly that the windows were tinted. (*See, e.g., Id.* at 163-64).

> You guys—I don't know what you have done, either the spotlight of the camera or something, you have got a dome light on inside this vehicle. No dome light came on that night. If there is a dome light on it will light up the interior. I could not see the interior of the vehicle.

(*Id.* at 164).

145. After David Requarth's testimony, the State never mentioned the tinted windows again in its case-in-chief, nor in their closing statements. When confronted with this by the defense, the State responds in rebuttal, mocking the defense witnesses and their sightings of the CADS7 car, stating:

> Now I've been challenged by defense counsel. Why didn't they talk about the car sightings? The prosecution must be scared to death about those car sightings … Do you know what this is? Elvis was in Central, Illinois Friday night, September 27, 1996.

(Ex. 133 at 148).

146. This comment in rebuttal resonated with the jury. During deliberations, they asked

to see the "Elvis map", suggesting the State was successful in discrediting the car sightings through the false and misleading testimony of David Swann. (Ex. 139).

147. The State was aware that David Swann's car had tinted windows. This car was in police custody for several days as they processed the car for evidence. (*See, e.g.,* Ex. 140; Ex. 141).

148. The false testimony regarding the tinted windows was material because it was used to discredit numerous defense witnesses who saw Karyn Slover and/or the CADS7 vehicle with times and locations that were inconsistent with the Slovers' perceived guilt.

149. The fact that the CADS7 car had tinted windows only bolsters Vicki Gagnon's credibility and claim that she saw the vehicle around 5:25 P.M. It is also supported by the testimony of another defense witness, Mr. James Huff, who saw the car immediately before Ms. Gagnon about three miles south of Cerro Gordo (*See,* Ex. 142). Their testimony is consistent with one another, and more importantly, an investigation into their testimony establishes the accuracy of the drive time placing Karyn Slover in Cerro Gordo if she left the Herald & Review parking lot at 5:05 p.m.

150. The Illinois Innocence Project (IIP) conducted experiments on whether it was possible to drive to the Cerro Gordo area in the time Vicki Gagnon and James Huff testified that they saw the CADS7 car. Students and an investigator with the Illinois Innocence Project participated in a drive the most logical route Karyn Slover would have taken if she had decided to take the back roads to Champaign on the evening of September 27, 1996. (*See,* Ex. 143). The results of this experiment were astonishing. They left the Herald & Review parking lot and activated a stopwatch to time their results. (*Id.* at 3). It took 16 minutes and 42 seconds to travel from the Herald & Review parking lot to the point where James Huff claimed to have seen the CADS7 car on September 27, 1996. (*See, Id.* at 3-4*)*. Mr. Huff claimed to have seen the speeding

CADS7 car sometime between 5:20 and 5:25 p.m., heading towards Millmine Road and the test drive placed the car at that spot at 5:21:42. (*See, Id.* at 1, 3-4.).

151. A second test drive was also conducted by the Illinois Innocence Project. In this second test drive, a similar route was driven, passing the point where James Huff saw the CADS7 car at 5:23 p.m., continuing to the point where Vicki Gagnon saw the CADS7 car, and it was 5:26 p.m. (*See, Id.* at 4). These drive times were essential evidence the jury should have been told of, and the failure of defense counsel to present this evidence is part of a claim of ineffective assistance of counsel later in this petition.

(2) Karyn's Purse

152. Not only does David Swann's false and misleading testimony critically damage the defense's case concerning Karyn's whereabouts after she got off work, but it also calls into question other aspects of the testimony the State used to prove the Slovers guilty of this crime.

153. For example, the State made much of the fact that Michael Slover, Jr. entered the bar Ronnie's, where he worked the night of September 27, 1996, after talking with his mother on the phone. (*See, e.g.,* Ex. 133 at 150). One witness testified that Michael Slover, Jr. told the bartender that Karyn's car had been found on the side of the road and that her purse was there as well. (*See,* Ex. 89 at 9-14). The State relied heavily on David Swann's testimony to establish that there was no way that Michael Slover, Jr. could have known this unless his parents were the real killers.

154. To support this allegation, the State used the testimony of David Swann to establish that he had no idea Karyn's purse had been found before arriving at the scene and, more importantly, that he had no opportunity to relay this information to Karyn's parents, Larry, and Donna Hearn (hereinafter, "the Hearns"). (*Supra,* 17). Transcripts of the conversation between

Swann and the Piatt County Sheriff's office demonstrate that Swann knew Karyn's purse had been found with the abandoned CADS 7 car, and phone records supports the conclusion that he could have relayed this information to the Hearns, who then had the opportunity to relay this information to Michael Jr. (*See, e.g.,* Ex. 144 at 2; Ex. 79 at 1537). However, David Swann denied being told that Karyn's purse had been found or that he had told the Hearns this information. If the jury had been aware Swann was willing to testify falsely, it would have severely undermined this claim against Michael Slover, Jr.

155. David Swann testified that he made two phone calls to Mr. and Mrs. Hearn: one before his car was found and another right after the Piatt County Sheriff's Office alerted him it had been discovered on the side of the road. (*See,* Ex. 79 at 1537). The State never asked David Swann if he received any phone calls from the Hearns. According to the Hearns, they left the house immediately after talking with Jeannette Slover and finding out that Kolten was safe. (*See, e.g.,* Ex. 145; Ex. 146). The Hearns also could not remember talking to Jr. that evening at 10:30 p.m. (*See,* Ex. 146; Ex. 147).

156. The problem is that the phone records do not support the story told by Swann or the Hearns. The phone records indicate that Swann and the Hearns accurately state they had two phone conversations: one at 10:02 p.m. before Swann was notified that his car had been found and one at 10:09 p.m. after Swann was notified his car had been found. (*See,* outgoing calls to phone number 217-423-**** at 22:02:34.3 and 22:09:43.6 from Ex. 148). However, the phone records indicate that these were not the only phone calls between the Hearns and Swann. Phone records show a phone call from the Hearns' residence to David Swann occurred at 10:24 p.m. and lasted 4 minutes and 54 seconds. (*See,* incoming call from phone number 217-423-**** at 22:24:18.6 from Ex. 149). Thus, the Hearns did not immediately leave their residence after the second call

from Swann as they testified at trial. More importantly, phone records show that after they hung up that phone call at 10:20 p.m. the Hearns received a phone call from Ronnie's Lounge, the phone Michael Slover, Jr. was using, that lasted one minute. (*See,* call with phone number 217-423-**** at 10:30P from Ex. 150).

157. There is no mention at trial of this 4:54-second phone call between the Hearns and Swann – only a passing question as to whether the Hearns received a phone call from Michael Slover, Jr. at 10:30 p.m. – a time the Hearns say they were at the scene of the crime. (*See, Supra,* 56; Ex. 147). This evidence is critical in explaining how Michael Slover, Jr. would know that Karyn's purse had been found with the car. The State deliberately misled the jury as to the nature of these phone calls during their case-in-chief and their closing argument. (*See, e.g.,* Ex. 78 at 55; Ex. 133 at 150).

158. The State used a visual aid at trial to show the jury the phone calls that took place the day Karyn disappeared. (*See,* Ex. 151). The visual aid showed a phone call at 10:02 P.M. from Swann to the Hearns. (*Id.* at 2826). It also showed a second call from Swann to the Hearns at 10:09 P.M. (*Id.*). Conspicuously missing from the State's chart of the phone calls is the 4 minute, fifty-four second phone call that took place between the Hearns and Swann at 10:24 P.M. There was more than ample time to relay the information regarding the purse during this call.

159. Whether this phone call actually took place is not a fact in dispute. The State stipulated to these phone calls. The visual aid used by the State was a blatant attempt to get the jury to overlook the fact that this phone call took place. The State was free to argue Swann's claim that he did not know about the purse and the Hearns' claim that they did not know about the purse until they got to where the abandoned CADS7 car was found. However, it was deceptive of the State to pretend this call never took place, thereby never giving the jury the chance to judge the

credibility of these claims on their own merit. This is a prime example of the State's willingness to present false and misleading testimony to the jury.

160. The State knew David Swann's testimony regarding the purse was false because, as established elsewhere in this Petition, the State had phone call transcripts and phone records disproving these claims by David Swann. Yet the State elicited this testimony, did not correct it, and even highlighted the misinformation on demonstrative presentations to the jury. This false testimony regarding the purse was material because it incorrectly suggested that Michael Slover, Jr. had information he would not have known if he was not involved in Karyn's murder.

161. The multitude of false and misleading evidence presented against the Slovers regarding a host of issues (i.e., cinders and concrete, dog hair, buttons and rivets, tinted windows, Karyn's purse) was known by the State and elicited by the State. Not only that, the State had a duty to correct any known false evidence that was presented. (*See*, *Napue v. Illinois*, 360 U.S. 264 (1959); *People v. McKinney*, 31 Ill.2d 246, 251, 201 N.E.2d 431, 434 (1964)). Not doing so is a constitutional violation and should result in a new trial for the Slovers.

LEGAL CLAIM III: INEFFECTIVE ASSISTANCE OF COUNSEL

162. Michael Slover, Jr., and Jeannette Slover re-allege every paragraph of this petition and expressly incorporate them as if they were fully set forth herein.

163. Outmatched in resources, underfunded, and constrained by time, the Slover defense counsel was ineffective and this inadequate representation led to the Slover's wrongful conviction.

164. The Sixth and Fourteenth Amendments to the U.S. Constitution, and Article I, Section 8 of the Illinois Constitution guarantees a person accused of a crime the right to counsel. (U.S. Const. amend. VI & XIV; Ill. Const. 1970, art. I, sec. 8). This right to counsel is fundamental and is aimed at protecting the right to a trial, and it includes the right to effective representation.

(*Strickland v. Washington,* 466 U.S. 668 (U.S., 1984); *People v. Perez*, 148 Ill.2d 168, 592 N.E.2d 984 (1992)).

165. Ineffective assistance of counsel exists when counsel's performance fell below an objective standard of reasonableness and there is a reasonable probability that the result of the proceedings would have been different absent counsel's errors. (*Strickland,* 466 U.S. at 687; *People v. Weir*, 111 Ill.2d 334, 338, 490 N.E.2d 1, 3 (1986)). "A reasonable probability is a probability sufficient to undermine confidence in the outcome." (*Strickland*, 466 U.S. at 694).

166. Counsel can be held to be ineffective where counsel fails to present any meaningful impeachment of the State's key witnesses. (*See*, *People v. Skinner*, 220 Ill. App. 3d 479, 581 N.E.2d 252 (1991); *See also*, *People v. Garza*, 180 Ill.App.3d 263, 269-70, 535 N.E.2d 968, 972 (1989) (failure to impeach sole eyewitness with major discrepancies in testimony held to be ineffective assistance)). Counsel is ineffective where counsel fails to subject the prosecution's case to meaningful adversarial testing.

167. **Ineffective Counsel Re: Dr. Joy Halverson**. In the Slover case, the defense team committed numerous errors regarding Dr. Joy Halverson. The defense failed to adequately investigate Dr. Halverson's qualifications, laboratory, procedures, methods, and overall work in the case. The defense did not utilize any type of DNA expert to investigate, review, or challenge Dr. Halverson's work. The only expert used was one provided by Dr. Halverson herself – Dr. Christopher Basten – who was admittedly not a DNA expert at all but was a statistical expert who could only review Dr. Halverson's probability assessments, not any of her DNA analysis. The fact that the defense team did not utilize a single DNA expert in this homicide case is unacceptable.

168. If the defense would have utilized a DNA expert to investigate and review Dr. Joy Halverson's work, they would have found what other attorneys, in other states, were able to

discover, which resulted in Dr. Halverson's testimony being deemed inadmissible or charges dropped against their clients. (*Supra,* 40-41). For example, if the defense would have used an expert to review Dr. Halverson's laboratory, they would have found, like Dr. Mitchell Holland found, that her laboratory was "not a forensic laboratory." (*Supra,* 40*).* If the defense would have had an expert review her DNA analysis, they would have discovered numerous problems, such as those described in Dr. Sree Kanthaswamy's report, including that her DNA analysis was:

> …plagued by several problems, including a lack of a robust forensic panel of canine STR markers, a lack of an appropriate and internally validated standard operating protocol (SOP) for forensic hair sample analysis, including processing and decontamination of evidence and reference samples, and DNA quantitation steps, and a lack of knowledge of canine population genetics.

(Ex. 129 at 3).

169. The defense also would have uncovered the myriad of problems with Dr. Halverson's work, which was discovered in other cases. This includes that Dr. Halverson's lab was not accredited, she had no proficiency testing, no internal or external controls, no formal education in DNA testing, that the DNA markers she used were not empirically validated; that she had a lack of proper equipment checks and had a history of errors and results that were contaminated. The defense could have discovered that Dr. Halverson incorrectly made an RMP calculation when she should have used the results for exclusion only. The defense could have uncovered that Dr. Halverson had no background in genetics and was incorrect when she assumed there was no inbreeding among the relevant dog population and that the database she used for comparison was inappropriate because it was not geographically diverse. Although the defense cross-examined Dr. Halverson on some of these points, the cross-examination was not sufficient, and it lacked weight because the defense had no expert to weigh in on these issues. Nor did the defense present any guidelines, articles, or any information to impeach Dr. Halverson, even though those were available, as evident in other cases involving Dr. Halverson at that time.

170. There is at the very least a reasonable probability that, had the Slover counsel prepared a proper defense against Dr. Joy Halverson, her testimony would have been found to be discredited, unreliable, or inadmissible. Further, there is at least a reasonable probability this would have led to a different outcome, especially in a circumstantial case such as this, and considering the weight and importance DNA evidence is afforded by jurors.

171. **Ineffective Counsel Re: Richard Munroe**. Like how the Slover defense team failed to properly investigate and review Dr. Halverson's work, the defense team also failed to do so regarding Richard Munroe. Although the defense did cross-examine Richard Munroe about some of the problems and flaws with his testimony, this cross-examination missed certain points, Munroe was not properly impeached, and the defense team failed to have an expert review his work.

172. There were a host of other misleading and false statements by Munroe, mentioned previously in this Petition, which were also never impeached by the defense. One example is when Munroe testifies to what he describes as "unique" peaks at 18 and 34 degrees (*Supra,* 36). Munroe is never challenged on the fact that these peaks were not, in fact, unique, but are indicative of some of the most common types of minerals in concrete in Illinois (*Id.*). Another example is when Richard Munroe discussed the statistical and scientific significance of the uniqueness of concrete, yet he never offered any data or any quantitative analysis to support this claim. The defense never confronts this, nor impeaches Munroe on this issue.

173. The reason the defense was not able to properly cross-examine and impeach Richard Munroe on the cinder and concrete comparison evidence is likely because the defense did not have an expert review of Munroe's work. While the defense did have its own expert, Dr. Raymond Murray, Dr. Murray only did his own analysis of the concrete and cinders, finding they

were not consistent with those found at the crime scene. Dr. Murray did not offer any review, testimony, or critique of Munroe's work.

174. The comparison of cinders and concrete in criminal cases is virtually non-existent outside of this case. Admitting this evidence at all was an error. If the defense presented proper expertise challenging Munroe's work, provided proper cross-examination, or provided proper impeachment, the multitude of problems with Munroe's work would have been exposed. Because this was not done, the jury was left thinking that there were two experts—one from the defense and one from the prosecution—that had different opinions based on science. However, that premise was false. The State's expert's cinder and concrete testimony was fundamentally flawed, incorrect, not rooted in science, and over-stated. Had the defense properly done their job, the cinder and concrete evidence would not have been found credible, or even been admissible at trial.

175. **Ineffective Counsel Re: Tinted Windows & Drive Time**. In the Slover case, the defense's primary goal was to show that Karyn never arrived to pick up her son Kolten on Friday, September 27, 1996 — never making it to Michael, Sr., and Jeannette's property in the first place. These efforts were deficient in two respects. First, the defense counsel failed to properly counter David Swann's false and misleading testimony that the CADS7 car did not have tinted windows (*Supra,* 50-52). Second, the defense counsel failed to adequately investigate the fact that the sightings of the CADS7 car by Vicki Gagnon and James Huff were perfectly consistent with the drive time of Karyn Slover leaving the *Herald & Review* at 5:05 p.m. and going in the direction of Cerro Gordo, Illinois. Neither of these omissions was trial strategy but instead were deficient performance on the part of trial counsel. The drive time, as demonstrated by the test drives conducted by the Illinois Innocence Project, was essential evidence that should have been part of the defense case. Demonstrating to the jury that the timing of these sightings by Huff and Gagnon

fit perfectly with the actual time it would have taken Karyn Slover to get to Cerro Gordo would have gone a long way with the jury. It would have given serious credence that the sightings were substantive, and not just "Elvis" sightings in central Illinois. There was simply no strategic reason not to give the jury the information necessary to determine the credibility of the defense's key witnesses.

176. **Ineffective Counsel Re: Alternate Suspects**. Part of the defense's trial strategy was to show that someone else murdered Karyn Slover, yet the defense never presented the jury with an alternative theory on *who* could have committed this murder. Early in the investigation, the police received numerous tips that Timothy Roach, Joshua White, and J.F. were involved in this murder. (*Supra,* 7-8). Not only did they make numerous statements against penal interests, but they also had the opportunity to commit the crime, and they were arrested while trying to flee police the same day Karyn Slover's body was found. (*Id.*).

177. The defense theory at trial was that Karyn Slover was seen on the back roads between Decatur and Champaign after work on the night of Friday, September 27, 1996. Evidence also suggests Karyn was going to the mall to purchase a dress for the wedding she was to attend with David Swann the following day (*See, e.g.,* Ex. 79 at 1522). There is significant evidence that Joshua White, Timothy Roach, and J.F. were in the Champaign, Illinois area at that time, and were even at the mall in Champaign the evening Karyn Slover disappeared. (*See, e.g.,* Ex. 152). Further, police received a tip that Timothy Roach and Joshua White bragged about killing and dismembering Karyn Slover while she was still missing – before her body was discovered and before it was known that she was dismembered. (*See,* Ex. 39). Further, as mentioned previously in this Petition, Roach, White, and others were involved in fleeing police just hours before Karyn Slover's body was discovered. (*Supra*, 8). Yet the jury never heard any of this evidence.

178. The jury also never heard evidence that, before the Slovers' trial, the defense obtained an affidavit from April Pierce, confirming the tip received that Roach and White committed the murder. In fact, April Pierce later gave an interview and provided an affidavit stating that Joshua White told her that Timothy Roach had killed a woman from Decatur and that Roach "freaked out" that White said anything. (Ex. 153 at 8). Pierce also was told that Timothy Roach had a gun in his vehicle during the fleeing police incident, and that Roach got out of the car to ditch the gun. (*Id.* at 12-13). April Pierce stated Timothy Roach later approached her in a McDonald's parking lot in Charleston, Illinois and "threatened to kill [me] and Josh and put us in body bags and put us in a river if we talked or said anything." (*Id*. at 14).

179. Further, the jury never heard that police received a tip just a few days after Karyn Slover's body was found, that Tim [Roach], Joshua White, and J.S. admitted to killing someone on "Friday night," the same night Karyn Slover disappeared. (Ex. 38). Nor did the jury hear that this tip was confirmed by yet another person, who called police the same day Karyn Slover's body was found, stating she also heard Roach, White, J.F., and J.S. were involved with killing someone, yet only believed it once they were caught running over a police officer in an attempt to flee. (*See,* Ex. 154).

180. This evidence would have been admissible if presented at trial. *See*, *Chambers v. Mississippi*, 410 U.S. 284 (U.S.Miss. 1973) (in which a third-party hearsay confession was admissible when made closely after the crime occurred, was corroborated, self-incriminating, and there was adequate opportunity for cross-examining declarant). The failure to present this evidence of these alternate suspects was ineffective assistance of counsel. This is the type of evidence the jury needed to know to properly weigh the circumstantial case against the Slovers. This theory is at least as plausible as the theory the State presented to the jury. It amounts to reasonable doubt.

181. Although the new DNA evidence is not part of the ineffective assistance of counsel claim, as it is newly-discovered evidence of innocence, it is important to point out that this evidence against Timothy Roach, Joshua White, J.F. / J.S. would be especially powerful now, knowing that DNA of at least three unknown males was found on the duct tape with Karyn Slovers' remains. If there were a retrial today, the Slovers would be acquitted.

182. **Ineffective Counsel Re: Chain of Custody**. As previously discussed, the investigation of the disappearance and murder of Karyn Slover was flawed. This flawed investigation included a lack of the police to establish a chain of custody with evidence used against the Slovers, and The defense counsel's failure to address this was ineffective.

183. When the State seeks to introduce an object into evidence, the State must lay an adequate foundation either "through its identification by witnesses or through a chain of possession." (*People v. Stewart*, 105 Ill.2d 22, 59 (Ill., 1984); *People v. Kabala*, 225 Ill. App. 3d 301, 305, 587 N.E.2d 1210, 1212 (1992)). Where an item has readily identifiable and unique characteristics and its composition is not easily subject to change, an adequate foundation is laid by testimony that the item sought to be admitted is the same item revered and is in substantially the same condition as when it was recovered. (*People v. Irpino*, 122 Ill. App. 3d 767, 773, 461 N.E.2d 999, 1003-4 (1984); *People v. Gilbert*, 58 Ill. App. 3d 387, 390, 374 N.E.2d 739, 741 (1978)).

184. However, in cases in which the physical evidence is not readily identifiable or may be susceptible to tampering, contamination, or exchange, the State is required to establish a chain of custody. (*See*, *People v. Bynum*, 257 Ill. App. 3d 502, 510, 629 N.E.2d 724, 729 (1994); *People v. Hominick*, 177 Ill. App. 3d 18, 29, 531 N.E.2d 1049, 1056 (1988)). In the present case, the State searched the Slovers' Miracle Motors property in March of 1998. During this search, investigators

dug up dirt and placed it into buckets to search for evidence possibly related to Karyn Slover's murder. (*See,* Ex. 155 at 4-5)[13]. The buckets were then moved from Miracle Motors and placed in a warehouse where they sat for several weeks, unsealed, before being sifted for evidence. (*See, e.g., Id.* at 11-12; Ex. 156 at 1901; Ex. 157 at 2615). These buckets of dirt were susceptible to tampering and the State failed to present an adequate chain of custody for their introduction into evidence. However, defense counsel failed to properly preserve this issue, and because of the nature of the content of the buckets, this failure was ineffective assistance of counsel.

185. The State searched the Slover properties multiple times (*See, e.g.,* Ex. 158; Ex. 159).

It was only after a third search of the Miracle Motors property that so-called button and rivet evidence was found. This search was almost two years after Karyn Slover had been murdered, and more than one year after the Miracle Motors property had been sold to different owners. (*Supra,* 49). The search was led by Richard Munroe, who was later called as the geology expert for the State. (*See,* Ex. 155 at 17; *Supra,* 14). Munroe, who formerly worked as a Canadian police officer, led this third search on March 10-12, 1998. At the time of the search, there was snow on the ground and the search crew brought in a large military tent and propane heaters, used to heat the area to be searched. (Ex. 155 at 3-4). Equipment used to melt asphalt was brought in for the search to melt the snow and thaw the ground. (*See,* Ex. 160). Two to three inches of soil was then scraped off with new shovels and placed into plastic buckets. (Ex. 157 at 2604). Searching the buckets was difficult on site and they were taken to a new location to be searched at a later date. (*See,* Ex. 155 at 5-6).

186. The car lot was divided into grids and the searchers dug in different areas of the car

[13] The Illinois Innocence Project's copies of the testimony of Jeff Thomas (Ex. 155) did not have visible page numbers. Thus, page numbers have been manually added for citation and reference purposes.

lot, put the dirt into buckets, and identified the buckets by grid number and a letter to determine in what order the buckets were filled with dirt – i.e., the first bucket filled from area 36 would be labeled as 36A, bucket 2 would be 36B, etc. (*See, Id.* at 1, 7). Deputy Jeff Thomas concentrated his efforts on digging in area 36 and marking buckets from areas 38 and 40 which were located near a burn barrel. (*See, Id.* at 6, 8-9). At one point, Deputy Thomas received a metal button from Coroner David Reed. (*See, Id.* at 14-15). The button was found in a bucket from area 36 and given to Munroe. (*Id.* at 16-17).

187. Deputy Thomas admitted that he did not know how many buckets of dirt had been taken from area 36 and that several people were digging in that area. (*See, Id.* at 23-25). Each area of the grid was approximately four feet by ten feet. Investigators were schooled on how to dig and were told the type of buttons they wanted to find. (*See, e.g.,* Ex. 156 at 1908-09; Ex. 161). The buckets remained in a shed on the Miracle Motors property overnight and Deputy Thomas was not sure if the shed was locked although an officer remained on scene overnight. (Ex. 162).

188. Rodney Miller of the Illinois State Police dug and filled buckets in area 38 and gave them to Deputy Thomas, who put them into a metal shed adjacent to the dig site. (*See,* Ex. 157 at 2602-04). Trooper Miller transported 60 buckets of dirt to the Task Force Facility in his Toyota pick-up truck, ultimately taking three trips to complete. (*See, Id.* at 2605). The task force building also housed seized vehicles, and people other than law enforcement officers had access to the building. (*See, Id.* at 2606-07, 2615).

189. On cross-examination, Trooper Miller admitted that none of the buckets had lids on them and anyone in the building had access to the buckets. (*See, Id.* at 2614-15). The buckets remained in the task force building for about a month while the sifting took place. (*See,* Ex. 155 at 12). Miller could not remember if there was any security at the Miracle Motors property during

the search. (*See,* Ex. 157 at 2628-29). Mike Mannix testified that an individual had to have permission to be in the task force building and that the building had a burglar alarm. (*See,* Ex. 163).

190. In all, there were over twenty people at Miracle Motors during the search and not all of them were from law enforcement. (*See,* Ex. 164 at 8-9)[14]. Deputy Sims was there when the buckets were removed from the lot at Miracle Motors, but he did not see who moved the buckets. (*See, Id.* at 10). During this search, Sims recovered a button, which the State would later present as evidence against the Slovers. (*See, Id.* at 1-4). Sims could not recall who was present when he found the button in the bucket aside from Mike Mannix and Jeff Thomas. (*See, Id.* at 12).

191. Detective Roger Ryan, who helped sift through buckets of dirt taken from the property, discovered a rivet from a pair of Paris Sports Club jeans in bucket 38O and gave it to Officer Mike Mannix. (*See,* Ex. 165). The sifting of buckets occurred in a warehouse on West Main Street in Decatur. (Ex. 166 at 1357). Bucket 38O was not sealed in any way from the time it was taken from Miracle Motors during the March search until it was sifted on April 8, 1998. (*See, Id.*).

192. Numerous people had access to the area where the excavation took place. The buckets were not in a secure facility during this process. Nobody had to sign in or out to enter the room where the buckets were kept. Both law enforcement and non-law enforcement personnel were in the room at various times. In addition, law enforcement personnel were given specific items of clothing to look for during the excavation.

193. In cases where the items seized are not readily identifiable and susceptible to tampering, the State must show that the police took reasonable protective measures "to protect the

[14] The Illinois Innocence Project's copies of the testimony of Chris Sims (Ex. 164) did not have visible page numbers. Thus, page numbers have been manually added for citation and reference purposes.

evidence from the time that it was seized and that it was unlikely that the evidence had been altered." (*People v. Woods*, 214 Ill.2d 455, 467, 828 N.E.2d 247, 255 (2005)). In the present case, the police collected buckets of dirt from the Miracle Motors site; and transported them, unsealed, to a warehouse; where the buckets remained for several weeks while waiting to be sifted. The buckets remained unsealed and access to the area where the buckets were kept was not limited. Under these circumstances, it can hardly be said that the police "took reasonable protective measures to protect the evidence."

194. Anybody could have planted or tampered with evidence in those buckets of dirt in the days they sat unattended in the warehouse. The rivet found in bucket 38O was not recovered until April 8, 1998, several weeks after the bucket had been removed from the Miracle Motors lot. (*Supra,* 68). This should never have been allowed into evidence; however, the defense counsel failed to properly preserve this issue and thus waived the argument on direct appeal.

195. The waiver rule is particularly appropriate when a defendant argues that the State failed to lay the proper technical foundation for the admission of evidence, and a defendant's lack of a timely and specific objection deprives the State of the opportunity to correct any deficiency in the foundational proof at the trial level. (*People v. Rodriguez*, 313 Ill.App.3d 877, 887, 730 N.E.2d 1188, 1196 (2000)). This rule does not preclude a claim of ineffective assistance of counsel on post-conviction because the State would be given the opportunity to correct any deficiencies at the hearing on the petition.

196. By failing to challenge the chain of custody at the trial level, counsel forfeited this claim on direct appeal because the "lack of a timely and specific objection deprives the State of the opportunity to correct any deficiency in the foundational proof at the trial level." (*People v. Woods*, 214 Ill.2d 455, 470, 828 N.E.2d 247, 257 (2005)). The prejudice in this case is obvious.

The State's case was entirely circumstantial. Every piece of evidence the State purported to link the Slovers to the murder of Karyn Slover was critical to their case. Failing to challenge the chain of custody, in this case, allowed the State to present evidence that buttons and rivets they found were consistent with clothing Karyn was wearing the day she disappeared. (*Supra,* 15).

197. It was obvious that David Reed knew exactly what they were looking for and had access to the same type of button and rivets given the fact he was present when Karyn's body was examined Karyn's body. (Ex. 167). A successful challenge to the chain of custody would have resulted in the State having to rely on this single button found on the scene and made their button evidence much less convincing to the jury. There is no strategic reason to allow the jury to receive evidence that was otherwise inadmissible due to a failure to establish a sufficient chain of custody.

198. **Ineffective Counsel Re: Failing to Object to Inflammatory Statements**. Defense counsel was ineffective for failing to object to the inflammatory statements made by the State during their closing arguments, which are discussed in detail below.

199. **Appellate Counsel Ineffectiveness**. Further, the Slovers' appellate counsel was ineffective for failing to raise each of these issues of ineffective assistance of counsel on direct appeal despite the existence in the record of the above-described omissions and failures of trial counsel.

200. **IAC / Newly-Discovered Evidence**. In addition, if the court finds that any of the newly-discovered evidence in this Petition could have been discovered by the Slovers' trial counsel, the Slovers reserve the right to amend this Petition to include these additional claims of ineffective assistance. Petitioners also reserve the right to add additional evidence of ineffective assistance of counsel, upon further investigation. Petitioners will seek leave of the Court to supplement this claim in the event other information is obtained in support of it.

LEGAL CLAIM IV: PLAIN ERROR

201. Michael Slover Jr. and Jeannette Slover re-allege every paragraph of this petition and expressly incorporate them as if they were fully set forth herein.

202. The State violated the Slovers' constitutional rights by using inappropriate and inflammatory remarks in closing arguments, which included comparing evidence in the case with the September 11, 2001, terrorist attacks. (*See*, U.S. Const., amend. XIV; Ill. Const.1970, art. I, § 2; *See*, *People v. Johnson,* 208 Ill.2d 53, 64 (Ill., 2003); *See also*, *People v. Wheeler*, 226 Ill. 2d 92, 121, 871 N.E.2d 728, 744 (2007)). These comments constituted constitutional error by depriving the defendants of the right to a "fair, orderly, and impartial trial." *People v. Blue*, 189 Ill. 2d 99, 138, 724 N.E.2d 920, 940 (2000), citing *People v. Bull*, 185 Ill. 2d 179, 214, 705 N.E.2d 824, 841 (1998)).

203. Generally, prosecutors are granted wide latitude in closing arguments. *People v. Cisewski,* 118 Ill.2d 163, 175, 514 N.E.2d 970, 976 (1987). The prosecution can comment on all inferences that are reasonably inferred from the evidence. (*Blue*, 189 Ill.2d at 127, 724 N.E.2d at 935). The State's closing remarks must be viewed "in their entirety and the allegedly erroneous argument must be viewed contextually." (*Blue*, 189 Ill.2d at 128, 724 N.E.2d at 935). However, comments that serve "no purpose but to inflame the jury constitutes error." (*Id*.) In fact, "intentional prosecutorial misconduct may so seriously undermine the integrity of judicial proceedings as to support reversal under the plain-error doctrine." (*People v. Johnson,* 208 Ill.2d 53, 64 (Ill., 2003)).

204. A new trial is required only if the improper comments prejudiced the defendant's right to a fair trial. (*United States v. Amerson*, 185 F.3d 676, 686 (7th Cir. 1999)). The question to be decided is whether the statements were so inflammatory and prejudicial to the defendant

petitioner as to deprive him of a fair trial and thus deprive him of his liberty without due process of law as proscribed by the Fourteenth Amendment." (*Id*., citing to *United States ex rel. Garcia v. Lane*, 698 F.2d 900, 902 (7th Cir. 1983)). The pertinent inquiry for reviewing such claims is whether the prosecutor's comment "'so infected the trial with unfairness as to make the resulting conviction a denial of due process.'" (*Amerson*, 185 F.3d at 686).

205. In the Slover case, Assistant State's Attorney (ASA) Richard Current, made several comments during closing arguments that were not based on a rational discussion of the evidence but were instead intended solely to incite the jury's emotions. First, ASA Current likened the trial to a "long and arduous voyage," with the end being that "we have finally sailed into a safe port." (Ex. 78 at 15). Current stated this voyage "took us to a destination we never care to go into which we never imagined existed." (*Id*. at 16). Current then made an unnerving comment, stating:

> On pulling into port, we discovered that the captain of our ship, the skipper who has remained below deck, who has remained alone in her cabin for the entire passage, is really Karyn Hearn Slover.

(*Id*.).

206. The prosecution makes several other inappropriate, inflammatory comments. For example, ASA Richard Current argued the murder weapon and tool used to dismember Karyn Slover were hidden somewhere, as "comfortable buddies with the rest of her body parts." (*Id*. at 24). Another line of commentary suggested that the Slovers, and not some male stranger, killed Karyn because a male stranger would have sexually assaulted Karyn because she was attractive. Specifically, ASA Current stated:

> Well, what are the two things that are worth most? Well, there's a car. You'd steal the car, and they have got a very attractive lady, and there's nothing sexist about what I'm going to say but a man comes upon a very attractive lady, doesn't take her car, doesn't sexually assault her.

(*Id*. at 20).

207. Most significant were comments made by the State during closing arguments referencing the September 11th terrorist attacks. Bewilderingly, Richard Current tried to compare animal DNA obtained from the dog hair in the Slover case in central Illinois, to human DNA used to identify victims in New York City, in the largest terrorist attack to ever occur on U.S. soil. The fact that these comments were made in the spring of 2002, just nine months after the September 11th attacks, makes them even more egregious. Not only did the State attempt to inflame the jury simply by referring to the September 11th attacks at all, but they also took it steps further, using explicit, unnecessary, and shocking language, referring to "dead American soldiers", "body parts, over 28 hundred", stating the World Trade Centers, "came tumbling down". (*Id.* at 35-36). The remarks are as follows:

> Now, Dr. Halverson testified, and you probably heard more about DNA than you would ever care to know about, but what caught your ears as she first started? What is DNA used for? DNA is used to identify dead American soldiers. DNA is used to identify those body parts, over 28 hundred, from the World Trade Center, both of them when they came tumbling down, and then you knew, hey, there's something to this DNA. Well, there certainly is.

(*Id.*).

208. Finally, in closing the State references the jury as having some role out of a fairy tale, with the Slovers as the villains and the jury as the ones that need to punish them. ASA Current, stated:

> But for Karyn Hearn Slover, the tale had an unimaginable and horrific ending.
>
> For others, though, the tale of Karyn Hearn Slover had a happy ending. For the three defendants, their grisly toil enables them to attain the object of their desire, which was Kolten. Only you can prevent the villains from living happily ever after.
>
> (*Id*. at 55).

209. "While prosecutors can certainly charge jurors to do their duty and to return guilty verdicts in accordance with the proofs, they are not at liberty to substitute emotion for evidence and blame jurors for handing us a lawless society in the event of an acquittal." (*People v. Stewart*,

342 Ill. App. 3d 350, 354, 795 N.E.2d 335, 339 (2003)).

210. This host of inappropriate and inflammatory comments by ASA Richard Current encouraged the jury not to make a decision based on a logical, impartial discussion of the evidence, but on their emotions and pressure to punish the "villains." These comments occurred in the context of a highly publicized trial, which was front-page news in the local paper. (*See*, Ex. 168). These comments served no rational or logical purpose. They were not based on the evidence in any meaningful way. Certainly, there was no logical connection between the September 11th attacks and the Slover case, so using the comparison to inflame the jury's sentiments was intolerable.

211. The fact that the prosecution interjected September 11th into this case was an intentional and flagrant attempt to appeal to the jury's emotions, absent any rationally sound basis. The prosecution attempted to compare rigorously studied STR DNA technology used to identify human victims, to that of forensic dog hair DNA analysis, which is not even established enough to be admissible in a criminal prosecution. (*See, e.g., Supra*, 40-41). This comparison could only serve to confuse the jury and inflame emotions. Further, even if there were some type of one-step, two-step, or three-step inference in which these cases were worthy of comparison, the language the prosecutor used in and of itself was inflammatory. Referencing the World Trade Centers coming 'tumbling down,' 'body parts,' and 'dead American soldiers' were gratuitous, flagrant, and unrelated to the Slover's trial.

212. Richard Current's commentary during closing arguments, just based on the September 11th attack references alone, are worthy of vacating this conviction. In fact, if the Slover's sentences were vacated, it would not be Richard Current's first murder conviction in Macon County overturned because of inflammatory remarks made during closing arguments.

Less than one year before the Slover trial, ASA Current prosecuted the *Wheeler* case. (*People v. Wheeler*, 226 Ill. 2d 92, 871 N.E.2d 728 (2007).

213. In the *Wheeler* case, the Illinois Supreme Court found that even though there was sufficient evidence for conviction, Richard Current's statements during closing arguments were enough to violate the defendants' federal and state constitutional rights to a fair trial. (*Wheeler*, 226 Ill.2d at 131, 871 N.E.2d at 749). The Court further found that Current "was not content to rely upon the strength of the State's evidence" and that an "us-versus-them" theme was established during closing. (*Id*.) The Court further stated that the arguments were "to inflame the passions and prejudices of the jury." (*Wheeler*, 226 Ill.2d at 130, 871 N.E.2d at 749).

214. Similar to the *Wheeler* case, the prosecution used an "us-versus-them" theme in the Slover case, arguing that the victim was a captain guiding the jury, in some type of fairy tale, and the jury's role was to prevent the villain-defendants from having their happy ending. Most egregiously, of course, was the reference to the September 11th attacks, which are undeniably inflammatory, and rise significantly above any inappropriate comments made in *Wheeler*.

215. It should not be lost on this court that the same prosecutors in the Slover case, had two other murder convictions overturned: the *Junior* case, and the *Wheeler* cases, respectively. Both were based on the same type of prosecutorial misconduct and during the same time period as the Slover case. Nor should it be lost on this court that a *third* murder conviction that occurred during this same period was also eventually overturned. This case was the wrongful conviction of Charles Palmer, who received a certificate of innocence and is in the National Registry of Exonerations. (Ex. 169). For a host of legal reasons—not least of all, the Slovers' innocence—the Slover conviction should also be overturned, resulting in four overturned murder convictions in a period of four years in Macon County.

LEGAL CLAIM V: CUMULATIVE ERROR

216. Michael Slover Jr. and Jeannette Slover re-allege every paragraph of this petition and expressly incorporate them as if they were fully set forth herein.

217. Even if individually the errors and other matters alleged in this Petition are not found to be sufficiently prejudicial to grant the Slovers post-conviction relief, the cumulative effect of all the matters alleged in this Petition deprived them of their fundamental due process right to a fair trial. (*See*, *People v. Jackson,* 205 Ill. 2d 247, 283, 793 N.E.2d 1, 23 (2001) ("individual errors may have the cumulative effect of denying a defendant a fair hearing"). Accordingly, whereas here, cumulative error is present, the Illinois Supreme Court has reversed convictions and sentences when it was clear that the cumulative error demand that the Slovers be granted a new trial. (*People v. Blue*, 189 Ill. 2d 99, 104, 724 N.E.2d 920, 923 (2000)).

CONCLUSION

218. For the reasons stated in the Petition, Petitioners Michael Slover, Jr., and Jeannette Slover respectfully request that this Court vacate the Slovers' convictions and grant them a new trial.

DATED: February 13, 2024

Respectfully submitted,

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