

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

Case No.: 2010 CF 001608 A

TINA LASONYA BROWN,

Div.: N (Bergosh)

Defendant.

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**ORDER DENYING SUCCESSIVE MOTION TO VACATE
CONVICTION AND SENTENCES**

THIS MATTER is before the Court upon Defendant's Successive Motion to Vacate Conviction and Sentences, filed by and through counsel on August 15, 2022, and brought pursuant to Florida Rule of Criminal Procedure 3.851. The State's Response to Successive Motion to Vacate Conviction and Sentences was filed on September 6, 2022. An evidentiary hearing was held on March 22, 2023, and was concluded on January 24, 2024, and written closing arguments were submitted on April 1, 2024. Having considered the motion, response, testimony, exhibits, argument of counsel, the court file, and applicable law, and being fully advised in the premises, the Court finds the motion should be denied.

PROCEDURAL HISTORY

On June 21, 2012, Defendant was found guilty of the first degree murder of Audreanna Zimmerman. On September 28, 2012, Defendant was sentenced to death. Her conviction and death sentence were affirmed by the Florida Supreme Court. *See Brown v. State*, 143 So. 3d 392 (Fla. 2014). Defendant filed an initial motion for postconviction relief on November 24, 2015, and her third amended motion was denied after an evidentiary hearing by the order of April 5,

2019. The Florida Supreme Court affirmed the denial on appeal in *Brown v. State*, 304 So. 3d 243 (Fla. 2020).

FACTUAL BACKGROUND

The facts of the case were summarized by the Florida Supreme Court as follows:

In March 2010, Tina Brown, Brown's sixteen-year-old daughter Britnee Miller, Heather Lee, and Audreanna Zimmerman lived in neighboring trailers in an Escambia County mobile home park. The four women were initially good friends, but their relationships—particularly between Miller, Brown, and Zimmerman—were volatile and often escalated to violence. Brown had previously accused Zimmerman of slashing her tires. Zimmerman had accused Brown of shattering a window in her car, having her boyfriend arrested, and reporting to the Florida Department of Children and Families that she was providing inadequate care to her children. Lee testified that she had intervened on multiple occasions to stop physical altercations between Miller and Zimmerman. On one occasion, Miller, who had recently discovered that Zimmerman was sexually involved with her boyfriend, attempted to strike Zimmerman. Zimmerman, however, defended herself by attempting to disable Miller with a stun gun. Later that day, Lee informed Brown that Zimmerman had used a stun gun on Brown's daughter, to which Brown responded that she was “going to get” Zimmerman.[n.1]

[N.1]. Lee's testimony regarding Brown's state of mind following the altercation was corroborated during trial by Corey Doyle, an inmate housed with Brown at the Escambia County jail. Doyle testified that Brown told her when she heard Zimmerman had used a stun gun on Miller, Brown informed Miller, “don't worry, I'll take care of it.”

Several days later, on March 24, 2010, Brown invited Zimmerman to her home under the guise of rekindling their friendship. Before Zimmerman arrived, Brown, Miller, Lee, and Miller's thirteen-year-old friend, were inside the trailer. Brown and Lee were in the kitchen, where Lee instructed Brown on the proper use of a stun gun. Miller then pulled her friend aside and told her, “we're fixing to kill Audreanna [Zimmerman].” Shortly after 9 p.m., Zimmerman entered the trailer. Brown waited several minutes and then used the stun gun on Zimmerman multiple times. When Zimmerman lost muscular control and fell to the floor, Brown continued to use the stun gun on Zimmerman, who was screaming and crying for help. Eventually, Brown pulled Zimmerman across the trailer into the bathroom. Zimmerman continued to scream and cry for help, so Miller struck Zimmerman in the face and Lee stuffed a sock into Zimmerman's mouth. Zimmerman was then forcibly escorted outside and forced into the trunk of Brown's vehicle.[n.2] Brown, Miller, and Lee then entered the vehicle and drove away.

[N.2]. During trial, Lee disputed this summation of what occurred in the trailer after Brown began to attack Zimmerman. The veracity of Lee's testimony concerning her involvement in this crime, however, was significantly challenged during trial, particularly because Lee, who claimed that she was a victim and was not involved in Zimmerman's murder, *pled guilty* to second-degree murder based on her involvement in Zimmerman's death.

The women drove to a clearing in the woods about a mile and a half from the trailer park. Brown exited the car and pulled Zimmerman out of the trunk. Zimmerman attempted to flee, but stumbled in the darkness and was caught by Brown and Miller. The two women wrestled Zimmerman to the ground and simultaneously attacked her. Brown used the stun gun again on Zimmerman as Miller beat her with a crowbar. Brown and Miller then switched weapons and continued to torture and beat Zimmerman. Miller eventually dropped the stun gun and repeatedly punched Zimmerman. Brown returned to the car, retrieved a can of gasoline from the trunk, and walked back toward the beaten and prone, but still conscious, Zimmerman. Brown poured gasoline on Zimmerman, retrieved a lighter from her pocket, set Zimmerman on fire, and stood nearby to watch the screaming Zimmerman burn. Lee testified that she was standing beside Miller, who exuberantly jumped up and down and screamed, "Burn, bitch! Burn!" After a few minutes, the three women returned to the car and drove away. During the ride home, Miller said, "Mom, you've got to turn around. I left my shoes and the taser." Brown, however, refused to return to the location of the event.

Shortly thereafter, Terrance Hendrick was outside his home which was located approximately one third of a mile away from the location of the attack. Hendrick heard a faint female voice asking for help, but he could not see anyone in the darkness. Eventually, Hendrick saw Zimmerman walking slowly toward his house. When Zimmerman reached Hendrick's house, she asked for assistance and sat on the front steps. As he waited on the porch with Zimmerman, Hendrick noticed that she had suffered a significant head injury, did not appear to be wearing clothes, and had a strong odor of gasoline. He testified that her skin was black and he could not identify her race.

At 9:24 p.m., an emergency medical technician (EMT) arrived at the scene. When the EMT approached Zimmerman, he observed her sitting on the porch, rocking back and forth with her arms straight out. Due to the extensive nature of Zimmerman's burns, the EMT testified that he could not initially identify whether she was wearing clothing. The EMT noticed that Zimmerman's skin was falling off her body, and he believed that over ninety percent of her body was burned. She had severe head trauma, and her jaw was either broken or severely dislocated. The EMT explained that the extent and severity of the burns prevented him from providing Zimmerman medical assistance. He testified that while he generally placed sterile gauze and oxygen on burns, he did not have enough gauze to cover her entire body. He attempted to stabilize her neck, but her skin was

charred to such an extent that he could not touch Zimmerman without her skin rubbing off onto his gloves.

Despite her injuries, Zimmerman was conscious and alert. She identified Brown and Lee as her attackers and told the EMT that she was “drug out of the house, tased, beaten in the head with a crowbar, and then set on fire.” She also provided her address as well as the addresses of her attackers, and asked the EMT to protect her children. The ambulance arrived within a few minutes and transported Zimmerman to the hospital. Inside the ambulance, Zimmerman repeatedly asked if she was going to recover. She told the paramedic that Brown, Miller, and Lee poured gasoline on her and set her on fire. She also stated that she “thought they had made up.” Zimmerman was stabilized at a local hospital and then transferred to the Burn Center at the University of South Alabama Hospital in Mobile, Alabama, where she died sixteen days later.

When Brown, Miller, and Lee returned to Brown's trailer, Brown and Miller removed their bloodstained clothing and placed it in a garbage bag. Lee removed her shoes, which were also stained with blood, and placed them in the bag. Miller informed her friend, who had remained at the trailer during the attack, that she had injured her hand striking Zimmerman, and that the three women had set Zimmerman on fire. Miller and her friend then used Brown's car to drive to the hospital to get medical care for Miller. Before returning from the hospital early the next morning, Miller discarded the bag of bloodstained clothing in a dumpster and attempted to remove the bloodstains from the inside of Brown's car.

With the information provided by Zimmerman, law enforcement officers apprehended Brown and Lee shortly after the attack and Miller was arrested after she returned from the hospital the next day. The three women were, however, released while Zimmerman was in the hospital. During that time, Brown informed her friend Pamela Valley that she, Miller, and Lee had beaten Zimmerman, forced her into a car, driven her to an open field and “lit her on fire and didn't look back.” A few days later, Brown informed Valley that Zimmerman was still alive and requested Valley to finish her off. Valley declined and later reported the conversation to law enforcement. Brown, Miller, and Lee were re-arrested on April 9, 2010, the date of Zimmerman's death.

At the scene of the burning, law enforcement officers discovered several pieces of evidence including a pair of white shoes; a stun gun with blood on the handle; paper stained with blood; an orange, gold, and black hairweave [n.3]; a crowbar; and a pool of blood. Additional blood was discovered on the passenger seat headrest in Brown's vehicle. During trial, a DNA expert testified that the blood on the headrest matched the known DNA profile of Zimmerman. Another DNA expert testified that the blood on the stun gun matched the known DNA profile of Brown. Finally, the medical examiner testified that the cause of Zimmerman's death was multiple thermal injuries, and the manner of death was homicide.

[N.3]. The officer that interviewed Brown after she was arrested on the night of the attack noticed that Brown was missing a large section of hair from the back of her head that matched the hairweave discovered at the scene.

See 143 So. 3d at 395–97.

CLAIM 1

Defendant raises a claim of newly discovered evidence based on affidavits from Corrie Doyle and Latoria Frazier. Defendant alleges that on December 12, 2021, Doyle signed a sworn affidavit that she testified untruthfully at Defendant’s trial. In the affidavit, Doyle alleges that she was housed with Lee in the 4 West (4W) dorm at the Escambia County Jail; she was housed with Defendant for a time in the 4 East (4E) dorm and then transferred back to the 4W dorm; inmate Latoria Frazier had warned her to stay away from Lee; Doyle knew Defendant’s lime green jumpsuit meant Defendant was a high-risk offender or facing serious felony charges; Lee admitted to Doyle being involved in the victim’s murder, including using a taser on her; and Lee directed Doyle to make false statements to her lawyer Randall Etheridge and the State Attorney’s Office regarding Defendant’s confession to Doyle.

Defendant alleges Latoria Frazier signed a sworn affidavit on June 17, 2022, which corroborates Doyle’s affidavit and in which Frazier alleges Doyle told her Lee asked Doyle to lie at trial, and Frazier told Doyle she should not testify and should stay away from Lee. Defendant alleges Frazier’s identity was only discovered through Doyle’s affidavit.

Defendant asserts this newly discovered evidence, when considered cumulatively with “all of the admissible evidence that could be introduced at a new trial” would result in an acquittal or a lesser sentence. *See Hildwin v. State*, 141 So. 3d 1178, 1184 (Fla. 2014). In addition to evidence introduced at trial and in initial postconviction proceedings, Defendant proposes the Court consider additional evidence introduced at the evidentiary hearing on her

successive motion, which she asserts would produce an acquittal of first degree murder or a life sentence upon retrial.

STANDARDS

In order to establish a claim of newly discovered evidence, a defendant must show the following:

First, the evidence must not have been known by the trial court, the party, or counsel at the time of trial, and it must appear that the defendant or defense counsel could not have known of it by the use of diligence. Second, the newly discovered evidence must be of such nature that it would probably produce an acquittal on retrial. *See Jones v. State*, 709 So.2d 512, 521 (Fla.1998) (“*Jones II*”). Newly discovered evidence satisfies the second prong of the *Jones II* test if it “weakens the case against [the defendant] so as to give rise to a reasonable doubt as to his culpability.” *Id.* at 526 (quoting *Jones v. State*, 678 So.2d 309, 315 (Fla.1996)). In determining whether the newly discovered evidence compels a new trial, the trial court must “consider all newly discovered evidence which would be admissible,” and must “evaluate the weight of both the newly discovered evidence and the evidence which was introduced at the trial.” *Jones v. State*, 591 So.2d 911, 916 (Fla.1991) (“*Jones I*”).

Spann v. State, 91 So. 3d 812, 815–16 (Fla. 2012). To be considered timely filed as newly discovered evidence, the claim must be filed within one year of the date upon which it could have been discovered through due diligence. *Jimenez v. State*, 997 So. 2d 1056, 1064 (Fla. 2008). Where newly discovered evidence is based upon affidavits, “[t]he determination of whether the statements are true and meet the due diligence and probability prongs of *Jones II* usually requires an evidentiary hearing to evaluate credibility unless the affidavit is inherently incredible or obviously immaterial to the verdict and sentence.” *Davis v. State*, 26 So. 3d 519, 526 (Fla. 2009). “The trial court should also determine whether this evidence is cumulative to other evidence in the case, whether the evidence is material and relevant, and whether there are any inconsistencies in the newly discovered evidence.” *Hurst v. State*, 18 So. 3d 975, 992 (Fla. 2009).

TIMELINESS

At the evidentiary hearing held on the successive motion, a defense investigator testified he met with Doyle in the Escambia County Jail in 2016, but Doyle indicated she had nothing to say to him. (Exhibit A, pp. 71, 73-75.) Other defense investigators testified they met with Doyle in 2018, and while she gave information inconsistent with her trial testimony, she was otherwise unwilling to talk with them. (Exhibit A, pp. 26-28, 35-37, 43-45.) Federal defense investigator Nels Roderwald testified he first met with Doyle in November 2021 and prepared the affidavit she signed. (Exhibit A, pp. 137-138, 143.)

Frazier's affidavit is untimely, as her statement could have been discovered with due diligence. Defendant alleged in her initial postconviction motion that Lee made incriminating statements to other inmates in jail between 2011 and 2013, and she had told other witnesses what to say, and she claimed had trial counsel hired an investigator, he would have discovered such information. (Exhibit B.) Frazier was one of a number of inmates who wrote "character support letters" used by Lee in her sentencing in 2012.¹ (Exhibit C.) Defendant could have investigated these particular inmates well before 2022. *See Dillbeck v. State*, 357 So. 3d 94, 101-02 (Fla. 2023) (finding that because counsel could have inquired decades before into potential witnesses, the defendant's claim was untimely); *Kormondy v. State*, 154 So. 3d 341, 351-52 (Fla. 2015) (finding evidence of a co-defendant's confession could have been discovered by the use of due diligence where there was prior evidence that there were other inmates who knew he was the triggerman). Therefore, Defendant's claim of newly discovered evidence based on Frazier's affidavit is untimely.²

¹ The Court took judicial notice of the records in this and the ancillary cases. (Exhibit A, p. 13.) The letter is dated February 20, 2012, and was filed in Lee's case on June 20, 2012.

² Even if timely, Frazier's affidavit, standing alone, would not constitute newly discovered evidence.

Moreover, Defendant challenged the veracity of Doyle's trial testimony in her initial postconviction motion but failed to call Doyle to testify at the hearing. *See* 304 So. 3d at 261. Had Defendant investigated Frazier and learned Doyle had lied, Defendant could have called Doyle to testify at the initial postconviction proceedings and also called Frazier to substantiate or impeach Doyle's testimony, depending on whether Doyle maintained or recanted her trial testimony. Additionally, Doyle made inconsistent statements in 2018, but Defendant waited until 2022 to file a newly discovered evidence claim. Therefore, Defendant fails to show her claim of newly discovered evidence is timely.

CREDIBILITY

Recanted testimony is exceedingly unreliable, and Defendant must satisfy the Court that the recantation is true. *See Armstrong v. State*, 642 So. 2d 730, 735 (Fla. 1994); *Davis v. State*, 26 So. 3d 519, 526 (Fla. 2009). Doyle's recantation is unreliable in a number of respects.

First, Doyle did not provide a credible reason for recanting her testimony after all this time. Doyle testified she did not feel comfortable speaking to investigators in 2018, but she was comfortable speaking to Roderwald in 2021 because "he seemed genuine." (Exhibit A, pp. 104-105.) Doyle testified that she testified in 2012 because Lee threatened her, and she was afraid of Lee. (Exhibit A, pp. 99-100, 103.) She testified she was still afraid of Lee. (Exhibit A, p. 103.)

Next, Doyle's trial testimony, affidavit, and evidentiary hearing testimony are inconsistent. At the evidentiary hearing, Doyle testified she lied under oath at trial, that she did not know what she signed was an affidavit, and that she did not read the affidavit, except those portions where she had corrected Frazier's name. (Exhibit A, pp. 103, 105-108, 127, 131-132, 135.) Doyle recanted some of the statements in the affidavit. (Exhibit D; Exhibit A, pp. 117-

120.)³ She further testified there was some of it she did not understand, so she did not put a line through or underline it. (Exhibit A, p. 119.) While the affidavit indicates Lee told Doyle she and Defendant attacked and used a taser on the victim, Doyle testified that the only thing that was a lie was that her trial testimony was based on what Defendant told her. (Exhibit A, pp. 100-101.) She testified she did not realize that the victim was killed because of Lee's husband until Roderwald came to see her and that Roderwald led her into saying certain things, such as it was Lee's husband. (Exhibit A, pp. 111, 121.) She also testified Roderwald pressured her to make a statement.⁴ (Exhibit A, pp. 122-123.) Doyle testified she wrote a letter on Lee's behalf in 2012 but that it too was a lie in that she was threatened by Lee to write it. (Exhibit A, pp. 126-127; Exhibit C.) Upon further cross examination, Doyle threatened to just say she did not remember anything anymore. (Exhibit A, p. 128.) Doyle also testified it had been a lot of years and a lot of drugs. (Exhibit A, p. 128.) It was stipulated that Doyle had five felony convictions and one conviction for a crime of dishonesty. (Exhibit A, pp. 129-130.)

Doyle also testified she had knowledge of the murder based on statements she overheard made by Defendant. Doyle testified she overheard Defendant talking with other inmates about the reason for the crime was because of a prior incident between her daughter and the victim, and she overheard Defendant say something about tasing the victim, something about a crowbar, burning the victim, and that her daughter Britnee Miller caught her hands on fire for burning the victim. (Exhibit A, pp. 97, 114.) She further testified she overheard Defendant and her daughter talking that all three of them did it. (Exhibit A, pp. 109-110.)

³ A copy of the original affidavit and a copy containing Doyle's handwritten redactions made at the hearing were admitted into evidence.

⁴ Roderwald denied he pressured Doyle to sign the affidavit. (Exhibit A, p. 149.)

Frazier testified at the evidentiary hearing in 2024 that Doyle told her Lee wanted Doyle to lie in court for her and that Frazier advised her to not get involved.⁵ (Exhibit E, pp. 14-16.) Frazier testified Doyle did not specify in what way Lee asked Doyle to lie. (Exhibit E, pp. 18-19.) Frazier also testified that her conversation with Doyle occurred after Frazier wrote her letter for Lee in 2012. (Exhibit E, pp. 21, 23, 25-26.) Doyle's affidavit indicates Frazier warned her to stay away from Lee before Doyle was moved to dorm 4E and possibly before Doyle and Lee allegedly discussed Lee's case. Roderwald testified Doyle stated she had known Lee before speaking with Defendant and spoke with Frazier beforehand. (Exhibit A, p. 138.)

Doyle gave contradictory statements and made efforts to disclaim her affidavit, and her testimony failed to solidify how she would testify at a retrial. Her demeanor at the evidentiary hearing became defensive and antagonistic. The Court finds Doyle was not credible and would be an unreliable witness at a retrial, and Defendant has failed to establish Doyle's recantation is truthful. *See* 91 So.3d at 822.

PROBABILITY OF AN ACQUITTAL OR LESSER SENTENCE

Defendant argues that Doyle's testimony proves Defendant was not an aggressor or the primary aggressor of the murder. Defendant also argues had it not been for Doyle's testimony, the jury would have found Lee's testimony less credible and would have rejected the State's theory that Defendant was the primary aggressor and that Defendant's motive for the murder was a conflict between Miller and the victim. Defendant argues that in a retrial, evidence showing Lee was the more culpable co-defendant and the one with a motive for the murder, along with other evidence admissible in a retrial, would probably produce an acquittal or lesser sentence.

⁵ The State objected to Frazier's testimony as hearsay, and Court reserved ruling on the issue of whether the statement was a prior consistent statement. (Exhibit E, p. 15.) The objection is overruled.

At trial, Doyle testified she was incarcerated in the Escambia County Jail from July 14, 2011, through April 2, 2012. (Exhibit F, p. 605.) Doyle testified she was curious about Defendant because Defendant wore a lime green jumpsuit, which was different from hers and other jumpsuits. (Exhibit F, p. 606.) Doyle testified Defendant told her she wore the lime green jumpsuit because she, her daughter, and another woman killed a girl. (Exhibit F, p. 607.) Doyle testified Defendant told her the reason they killed the victim was that her daughter and the victim had gotten into a fight over a boy, and the victim pulled a taser on Defendant's daughter. (Exhibit F, p. 607.) Doyle testified Defendant told her daughter she would "take care of it." (Exhibit F, p. 607.) Finally, Doyle testified Defendant told Doyle she and her daughter picked up the victim with Lee, but did not tell Lee what was going on, and she and her daughter beat up the victim, tazed her, and set her on fire, and that Lee was there but did not have anything to do with it. (Exhibit F, p. 608.)

According to Doyle's recantation, this conversation never took place. (Exhibit A, pp. 100-103.) Instead, Doyle now maintains that it was Lee that described the details of the crime, admitted her participation in it to Doyle, and forced Doyle to testify at trial. (Exhibit A, pp. 99, 110-114.)

Assuming Doyle's recantation is timely and credible, it would not probably result in an acquittal in a retrial. In its written closing, the State advised that if there were a retrial, the State would not utilize Doyle's testimony regarding a confession from Defendant. The Court finds that neither Doyle's recantation nor the absence of her testimony on behalf of the State would negate evidence that Defendant committed first degree murder.

In 2020, the Florida Supreme Court considered Defendant's allegations of newly discovered evidence in addition to all other evidence that would be admissible at a retrial and

found that the evidence would not probably result in an acquittal. *See* 304 So. 3d at 274-276. It was found that at a retrial Lee's credibility would be undermined in light of evidence of her motive for and more active role in the murder, but the evidence would not overcome other evidence of Defendant's involvement and culpability, described as follows:

When the victim first emerged from scene of the burning, she named two people as the perpetrators—Tina Brown and “Heather”—and said that they dragged her out of the house, “tased” her, beat her in the head with a crowbar, and then set her on fire. She repeated those two names several times and told where those individuals lived. Similarly, the victim told a paramedic that “Tina, Heather, and Britnee” poured gasoline on her and set her on fire. The victim did not distinguish among the perpetrators in terms of who did what, which suggests that in her experience, they were all acting in concert.

M.A., on the other hand, testified that from her observations at the trailer, Brown was the primary aggressor, although Lee also participated by putting a sock in the victim's mouth. Brown is the one whose trailer and vehicle were used in the crime, and she is the one M.A. heard screaming at the victim about calling Crime Stoppers. She is the one who, according to M.A., operated the stun gun, held the victim's hands behind her back, and forced the victim into the trunk. Consistent with M.A.'s testimony, Brown's DNA was on the stun gun.

In addition to M.A.'s testimony and the forensic evidence, there were incriminating statements by Brown and her daughter. Just before the crime started, Brown's daughter, Miller, told M.A. that they were going to kill the victim. And Pamela Valley testified, albeit not without impeachment, that, days after the crime was complete, Brown wanted the victim “finish[ed] off.” Further, in any retrial, Brown's new jury would hear compelling evidence against her that her original jury did not: Brown admitted at the *Spencer* hearing that she “was one of the ones who participated in taking [Zimmerman's] life” and commented that “[Zimmerman] didn't deserve it at all.”

In consideration of the foregoing evidence that is independent of Lee's testimony, when considered cumulatively with all of the evidence that would be admissible in a new trial, the newly discovered evidence from Edmonson and Swindle fails the second *Jones* prong as to the guilt phase, as the evidence is not of such a nature that it would probably produce an acquittal on retrial. In fact, the impeachment of Lee would do little, if anything, to disturb the evidence of felony murder. While Swindle did testify that Lee said that the other two codefendants “didn't do anything,” significant evidence belies that claim.

Id. at 276. Defendant now seek to add to that cumulative review the testimony of Doyle, Frazier, Iris Moreland, and Brittany Dean.

Moreland's affidavit states Lee told her Lee bought the gas and that the victim deserved to die.⁶ At the 2023 evidentiary hearing, Moreland testified she overheard Lee tell Tajiri Jabali these things some time between 2012 and 2014. (Exhibit A, pp. 51-52.) However, Jabali herself testified at the evidentiary hearing in the initial postconviction proceedings that Lee told her she orchestrated the murder and was the ringleader and that the reason was related to Lee's husband and his mistress. (Exhibit G, pp. 110-111.) Jabali testified that Lee threatened Jabali not to cheat on her or she would do what she did to her baby daddy's mistress. (Exhibit G, pp. 111-112.) Jabali testified that she read in Lee's journal that the victim deserved to die and that "these bitches," which Jabali later believed meant Defendant and Miller, were scared and did not want to do anything, and Lee had to force them. (Exhibit G, pp. 115-117.) Jabali also testified that Lee had threatened to set others on fire while in prison but was bragging and trying to be tough when she said such things. (Exhibit G, pp. 117, 119.)

Moreland's affidavit is inconsistent with her testimony, where she states in the affidavit that she was told by Lee, but she testified that she overheard Lee talking to Jabali. Moreover, Jabali did not mention anything about Lee having bought the gas, and Jabali testified she read Lee's statement that the victim deserved to die but did not testify that Lee told her that statement. Moreland's testimony is also inconsistent with Jabali's testimony and is less compelling.

Brittany Dean testified she was incarcerated in the Escambia County Jail around 2010 and has been convicted of a felony twice. (Exhibit A, pp. 82-83.) She testified she was housed

⁶ Defendant did not specifically allege that Moreland's affidavit and statements constituted newly discovered evidence.

with Lee, who told her she and Miller beat the victim and put her in the car and that Defendant drove them to a wooded area, and Lee did not specify who lit the victim on fire. (Exhibit A, pp. 83-85.) Dean testified Lee said she felt guilty, took a plea, and admitted she lied. (Exhibit A, p. 85.) Dean testified Lee said she wished she had gone back and made sure the victim was dead, and none of this would have happened. (Exhibit A, p. 85.) Dean testified Lee was a bully and would make comments to others like, “I’ll burn your ass up too.” (Exhibit A, p. 86.) Dean testified she did not come forward sooner because “you never know if what truth is behind what people anyway. People always boost up their stories.” (Exhibit A, p. 88.)⁷

In her affidavit, Doyle stated Lee admitted she attacked and tased the victim. Doyle also testified Lee told her that Lee and two other ladies kidnapped a young lady and killed her. (Exhibit A, p. 99.)

In addition to trial and initial postconviction evidence discussed by the Florida Supreme Court, the Court notes Defendant’s motive for the murder is supported by Investigator Lee Tyree, who testified at trial that Defendant stated that shortly before the day of the offense, Miller and the victim fought, and the victim attempted to tase Miller. (Exhibit F, pp. 497-498.) Mallory Azriel, who witnessed the events at the trailer, testified at trial that she never saw Lee hit, beat, kick, or tase the victim at the trailer, Lee was standing and watching Defendant, she did not see Lee lead the victim to the car, and Defendant was the only one leading her. (Exhibit F, p. 479.) Trial testimony from Azriel and Valley contradict any implication from Jabali’s testimony that Defendant and Miller were forced by Lee to participate in the murder. Valley testified that she gave a prior statement that Defendant said she lit the victim on fire. (Exhibit F, p. 566.)

⁷ While the character letters submitted by Lee in her sentencing included one from Dean, Dean denied writing a letter on behalf of Lee. (Exhibit A, pp. 86-87, 93-94; Exhibit C.)

As argued by the State in closing at the guilt phase of trial, if the jury believed Lee or Miller was the one who actually poured the gas and lit the fire, Defendant was still guilty of first degree murder. (Exhibit F, p. 684.) The State further argued Defendant was the initiator and aggressor and was in control at the trailer, Defendant was on a mission that did not stop at the trailer, and that Defendant did not turn over control to Lee or Miller once they got to the wooded area. (Exhibit F, p. 708.)

Finally, at the *Spencer*⁸ hearing on August 22, 2012, Defendant stated the victim “died a horrific death,” Defendant “was one of the ones who participated in taking her life,” she was sorry she had “helped in this.” (Exhibit H.) The Florida Supreme Court found that in any retrial, the new jury would hear incriminating statements made by Defendant. *See* 304 So. 3d at 276.

The latest evidence does not negate evidence of Defendant’s motive for the murder, that Defendant was the primary aggressor at the trailer, or that Defendant tried to have the victim finished off in the hospital. Having assessed the credibility of the witnesses and considered the evidence that would be admissible in a retrial, the Court finds the proposed evidence would not overcome the overwhelming evidence of Defendant’s guilt. Therefore, Defendant fails to show the newly discovered evidence would probably result in an acquittal on retrial.

Next, in 2020, the Florida Supreme Court, noting the emphasis placed on evidence that Defendant was the one who lit the victim on fire and was the main aggressor, found “the additional impeachment of Lee *might* result in a lesser sentence at a retrial. However, it cannot be said that it *would probably* result in a lesser sentence.” *Id.* at 276-277. Defendant argues that

⁸*Spencer v. State*, 615 So. 2d 688 (Fla. 1993).

the testimony of Doyle and Frazier, coupled with corroboration from Moreland, would tip the scale toward a result that “would probably be a lesser sentence.” *Id.* at 277.

In the most recent proceedings, Moreland testified Lee bought the gas, Dean testified Lee did not specify who lit the victim on fire, and Doyle’s statement that Lee attacked and tased the victim does not specify what happened at the wooded area. The testimony of Moreland, Dean, and Doyle is cumulative to and less compelling than the evidence previously considered.

At the 2023 evidentiary hearing, Defendant also presented additional mitigation evidence through expert witnesses, including evidence that Defendant was a victim of sex trafficking, experienced incest, and was taught from an early age to be quiet, please others, and mask her discomfort with laughter. Defendant argues the new evidence mitigates against the Court’s finding of the cold, calculated, and premeditated aggravator by showing Defendant’ participation in the murder was impulsive due to chronic trauma exacerbated by drug use and not the result “of calm cool reflection.” (Exhibit F, pp. 1056, 1058.) Defendant further argues that even if Defendant had a plan, Defendant was unable to fully understand and appreciate the consequences of her actions.

In her previous postconviction proceedings, Defendant raised claims regarding mitigation evidence trial counsel failed to prepare and investigate. However, Defendant failed to substantiate many of her claims at the evidentiary hearing. This Court found that the expert testimony presented at the hearing was “largely cumulative of the evidence presented through lay witnesses and Dr. [Elaine] Bailey at trial.” (Exhibit I.) The Florida Supreme Court affirmed these findings. *Id.* at 267-269. It was noted that

Dr. Bailey testified during the penalty phase to the “stressors” that would have affected Brown at the time of the crime, including “repeated traumas, addictions, abusive relationships, exposure to violence, a lot of sexual victimization, both in childhood being prostituted and adulthood[,] [and a] lot of community negative influence and crime, and

[she explained that] all of those things c[a]me together.” Dr. Bailey also testified that Brown's childhood experiences would have affected her into adulthood, that trauma affects brain development, and that “[t]he bottom line is trauma is cumulative.”

Id. at 266, n.9. There was also ample evidence of Defendant’s ability to plan and execute the murder:

While testimony was offered to indicate that Brown was emotionally charged *during* this criminal episode, overwhelming evidence presented at trial demonstrates that Brown: (1) had the opportunity to coldly and calmly reflect *over the course of several days* on the manner in which she planned to kill Zimmerman; (2) discussed with her two codefendants her intent and plan to murder Zimmerman; (3) was calm, collected, and not emotionally frenzied, panicked, or experiencing a fit of rage immediately before the murder, but instead asked Lee to demonstrate the proper use of the stun gun so she could execute her plan to murder Zimmerman; and (4) had an abundance of time during the crime to reflect on the gravity and consequences of her actions, but instead decided to adhere to her carefully devised plan to deceive, attack, kidnap, and kill Zimmerman. Further, Dr. Bingham found no indication that Brown's anger and rage inhibited her ability to distinguish right from wrong or from thinking and processing information rationally and clearly. He testified that during the entirety of the criminal episode, Brown exhibited preplanning, direction, and goal-orientation. These facts specifically and directly demonstrate that Brown's decision to murder Zimmerman was the product of cool and calm reflection and was not an act prompted by emotional frenzy, panic, or a fit of rage.

See 143 So. 3d at 403.

At sentencing, the Court found the State had proven beyond a reasonable doubt three statutory aggravating circumstances:

(1) the murder was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification (CCP) (great weight); (2) the murder was especially heinous, atrocious, or cruel (HAC) (great weight); and (3) the murder was committed while Brown was engaged in the commission of a kidnapping (significant weight).

Id. at 401. In its discussion of the HAC aggravator, the Court relied on evidence that defendant was the “main aggressor” and was the one who poured gasoline on the victim and set her on fire.

See 304 So. 3d at 277. The Florida Supreme Court found that

[a]lthough there would be a more substantial question as to whether Brown actually lit the fire and acted as the primary aggressor, especially once the testimony of Darren Lee and Terrance Woods was added, all the evidence that the murder itself was heinous, atrocious, or cruel—a weighty aggravating factor—would still stand, and the new evidence would not carry any significant probability of showing Brown to have been a minor participant.

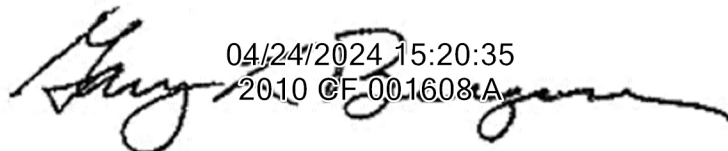
Id. The Court finds that the additional evidence is not enough for the Court or the jury to find Defendant was a minor participant and not a major aggressor. The most recent mitigation evidence is also largely cumulative to the mitigating evidence presented at trial and in Defendant’s initial postconviction proceedings and does not overcome the finding that Defendant’s decision to murder the victim was the product of cool and calm reflection. See 143 So. 3d at 403. Thus, the CCP and HAC aggravators would still stand in a retrial, and the mitigation would not overcome the aggravators and Defendant’s significant role in the murder.

Based on the above, Defendant fails to show her newly discovered evidence would probably result in a lesser sentence on retrial.

Accordingly, it is

ORDERED AND ADJUDGED Defendant’s Successive Motion to Vacate Conviction and Sentences is **DENIED**. Defendant has the right to appeal within 30 days of the rendition of this order.

DONE AND ORDERED in Chambers at Pensacola, Escambia County, Florida.

 04/24/2024 15:20:35
2010 CF 001608A

signed by CIRCUIT COURT JUDGE GARY L. BERGOSH 04/24/2024 03:20:35 KxvIWkTR

GLB/awg

Service of the Order Denying Successive Motion to Vacate Conviction and Sentences is to be made by the Clerk of Court upon:

Dawn B. Macready, Chief Assistant Capital Collateral Regional Counsel-North;
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Tina LaSonya Brown (DC# 155917)
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Ocala, Florida 34482-1479

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

CASE NO: 2010-CF-1608

TINA LASONYA BROWN,

Defendant

_____/

Proceedings held in the above-styled cause before the Honorable Gary L. Bergosh, Circuit Judge, on the 22nd day of March, 2023, at the M.C. Blanchard Judicial Building, 190 Governmental Center, Pensacola, Florida 32502.

APPEARANCES:

FOR THE STATE: BRIDGETTE JENSEN, ESQ.
Assistant State Attorney
190 Governmental Center
Pensacola, Florida 32502

STEVEN D. AKE, ESQ.
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FOR THE DEFENDANT: DAWN B. MACREADY, ESQ.
Chief Assistant CCRC-North
CHELSEA SHIRLEY, ESQ.
Assistant CCRC-North
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Tallahassee, Florida 32301

HYACINTHE REAVES
CIRCUIT COURT REPORTER

EXHIBIT A

1 I appreciate it.

2 MR. DUNKERLEY: I was not tied up over the
3 weekend.

4 THE COURT: Good. Good to see you. Thank
5 you, Mr. Miller. Thank you, sir. Y'all have a great
6 day.

7 MR. DUNKERLEY: May we be excused?

8 THE COURT: Yes, sir. Thank you so much.

9 I think the other issue I've got before -- or
10 a couple others -- we got the motion for rehearing and
11 then there was an issue as to judicial notice.

12 Judicial notice may be the easier one right now.

13 Everyone agree, I'm going to take judicial notice of
14 every trial and everything that's happened in the case?

15 MS. JENSEN: Yes, sir.

16 THE COURT: And any ancillary case. Anyone
17 disagree with that?

18 MS. JENSEN: Not from the State.

19 THE COURT: So I'll take judicial notice of
20 all cases and the ancillary case as well.

21 The issue of motion for rehearing. I've seen
22 it. I've read it. Anything you want to add to it?

23 MS. MACREADY: Nothing necessarily that I want
24 to add to it. I know we just needed to get some
25 arguments after -- based on your order into the record

1 Q. Who was your investigative supervisor for this
2 internship?

3 A. Jayson Shannon.

4 THE COURT REPORTER: Who?

5 THE COURT: I'm sorry, ma'am, say that again,
6 please.

7 THE WITNESS: Jayson Shannon.

8 THE COURT: You might have to give a wait,
9 there's a delay.

10 MS. MACREADY: I'm sorry.

11 Q. (By Ms. Macready) Did you ever work on Ms.
12 Brown's case with Mr. Shannon?

13 A. Yes.

14 Q. Do you remember a witness in the case named
15 Corie Doyle?

16 A. Yes.

17 Q. Was there a time when you went with
18 Mr. Shannon to interview Ms. Doyle?

19 A. Yes.

20 Q. Do you recall where this interview took place?

21 A. It was in a restaurant and we were sitting at
22 the tables outside. It was in Pensacola.

23 Q. And who was present for this interview?

24 A. Just me, Jayson Shannon and Corie.

25 Q. Can you describe Ms. Doyle's demeanor at this

1 meeting?

2 A. She was fidgeting, looked nervous, didn't
3 really maintain eye contact.

4 Q. Did she talk to you about the case?

5 A. Yes.

6 Q. Did she admit that she had lied at Tina's
7 trial at this time?

8 A. No.

9 Q. Did she ever tell that you Heather had
10 threatened her to testify falsely at this time?

11 A. No.

12 Q. Did she ever tell you that she was afraid of
13 Heather during this meeting?

14 A. No.

15 Q. So what did you do after speaking to her?

16 A. She just went back.

17 Q. I'm sorry. How long was this meeting with
18 her? How long did this last?

19 A. I want to say probably twenty minutes.

20 Q. So not very long?

21 A. No.

22 Q. And did you ever have any other contact with
23 her after that?

24 A. No.

25 MS. MACREADY: No further questions.

1 THE COURT: Cross-examination.

2 CROSS-EXAMINATION

3 BY MS. JENSEN:

4 Q. Ms. Torres, my name is Bridgette Jensen. I'm
5 with the State Attorney's Office. Nice to meet you via
6 zoom. So when did this contact with Corie Doyle take place?

7 A. In spring semester of 2018. That's when I was
8 working at Capital Collateral.

9 Q. Do you know how contact was made with Ms.
10 Doyle? How was this meeting arranged?

11 A. We had, I believe a pending subpoena, so we
12 went to her last known address. A man answered. We
13 pulled -- gave our contact information to him. He said that
14 she would be back, I think by the next day, if not earlier.
15 She reached out to us later that same day asking to meet and
16 gave us the address of where to meet.

17 Q. And was this the only time that you worked on
18 Ms. Brown's case was in 2018?

19 A. Yes.

20 Q. So you don't know where Ms. Doyle was prior to
21 that?

22 A. No.

23 Q. And you mentioned that she was fidgeting and
24 nervous. Do you know if Ms. Doyle had a history of a drug
25 habit?

1 was mid January and I went by two days in a row and no one
2 answered the door at the house that I was trying. So I went
3 one day and then I came back again the next day and no one
4 answered, so I just left a note at the door.

5 Q. Did this note have your phone number on it?

6 A. Yes.

7 Q. Did Ms. Doyle ever call you?

8 A. No.

9 Q. Did you try and locate Ms. Doyle on a fourth
10 attempt?

11 A. Yes. So at the end of January, because
12 sometime between mid January, the end of that January of
13 2018 another investigator from CCRC was able to talk to her,
14 so I went back again at the end of January to try and talk
15 to her again.

16 Q. Did anyone accompany you on this trip?

17 A. Yes. Jayson Shannon did.

18 Q. Were you able to locate Ms. Doyle?

19 A. Yes. We located her in the morning at her
20 house.

21 Q. And she answered the door?

22 A. Yeah. She answered the door, but she didn't
23 want to talk at her house, so she asked us to come back in a
24 couple hours and asked us to go and meet her at a park.

25 Q. So how would you describe Ms. Doyle's demeanor

1 when you knocked on the door and she answered?

2 A. She didn't really open the door. She just
3 kind of cracked it open and poked her head out. She seemed
4 kind of nervous and was hesitant to want to talk to us.

5 Q. Did you ultimately meet up with her at this
6 park?

7 A. Yeah. So we ended up going back to her house
8 and then we followed her to the park and tried to talk to
9 her for a little bit at the park.

10 Q. Did she come alone to the park?

11 A. Yes.

12 Q. And were you able to speak with her at the
13 park?

14 A. So we talked to her, but she didn't want to
15 talk about anything related to the case. So the
16 conversation didn't last very long.

17 Q. How was her demeanor when you met with her at
18 the park?

19 A. She seemed nervous. She was just kind of like
20 -- she wouldn't make any kind of eye contact. Any time I
21 tried to talk about the case she would change the subject.
22 She was looking around. She just seemed really nervous and
23 kind of scared.

24 Q. So what did you do?

25 A. We talked for maybe less than twenty minutes

1 and then after that we just left the park because it was
2 clear she didn't want to talk.

3 Q. And you said the conversation was how long
4 with Ms. Doyle?

5 A. Maybe twenty minutes.

6 Q. Was it your impression after meeting with Ms.
7 Doyle that she wasn't changing her testimony from trial?

8 A. Yes, at the time.

9 MS. SHIRLEY: May I have a moment, Your Honor?

10 THE COURT: Yes, ma'am.

11 Q. (By Ms. Shirley) So, Ms. Collins, you
12 mentioned prior to meeting Ms. Doyle at the park that
13 another investigator was able to reach Ms. Doyle on the
14 phone. Do you know who that investigator was?

15 A. Yes, Jayson Shannon.

16 Q. Is that who ultimately accompanied you to the
17 park?

18 A. Yes.

19 Q. When you were at the park with Ms. Doyle, did
20 she seem to be under the influence of anything or was she
21 more afraid?

22 A. There -- I definitely thought there was
23 potential that she was under the influence of some type of
24 drugs just from the way she was acting, like very jittery.

25 Q. Uh-huh.

1 Q. Did you -- did she contact you?

2 A. Yeah.

3 Q. When was that?

4 A. A short time later. Later on in that day.

5 Q. While you were still over in Pensacola?

6 A. Yeah.

7 Q. And what happened when she called you?

8 A. Well, we met up -- we organized or scheduled
9 to meet up at a restaurant, chicken restaurant on the
10 northern side of town.

11 Q. Who was present with you when you were
12 speaking with her at the restaurant?

13 A. Investigative Intern Crystal Torres.

14 Q. Can you describe Ms. Doyle's demeanor at this
15 meeting?

16 A. Yeah. She was acting very nervous. Looked
17 paranoid. She was acting sporadic, fidgety.

18 Q. Were you able to talk to her about the case?

19 A. Yeah.

20 Q. Did she give you any new information or did
21 she say anything different about the case?

22 A. I don't remember the specifics. I do know she
23 was -- it was not consistent to what she testified to.

24 Q. So you remember there being some sort of
25 inconsistency with her trial testimony?

1 A. Yeah.

2 Q. How long did this conversation with her last?

3 A. A little over ten minutes.

4 Q. And I want to ask you about the second
5 interview. Who was present for the second interview with
6 Ms. Doyle?

7 A. Emily Collins.

8 Q. And do you recall approximately when this took
9 place?

10 A. It was about a week later.

11 Q. So it was around the same time?

12 A. Uh-huh.

13 Q. How did you make contact with Ms. Doyle that
14 time?

15 A. Same thing. We went to the house, tried to
16 talk to her there.

17 Q. So she was at the house this time?

18 A. Yeah.

19 Q. And then what happened?

20 A. She was acting even more erratic, fidgety,
21 nervous. I remember she wouldn't maintain eye contact. And
22 she asked to meet us at a park down the road.

23 Q. So did you all ride together or how did you
24 get to the park?

25 A. She drove a car to the park that was right

1 down the road and I drove or I rode with Emily Collins.

2 Q. Did you have any concerns following her to the
3 park about the way she was driving?

4 A. Oh, yeah. She was definitely swerving and
5 driving all over the road.

6 Q. When you had initially spoken with her or made
7 contact with her at the house, did she appear to be under
8 the influence of anything?

9 A. I thought she was.

10 Q. Okay. When you arrived at the park, were you
11 able to speak with her?

12 A. Yes.

13 Q. Were you able to speak with her about the
14 case?

15 A. Not really.

16 Q. Was she coherent? Was she making any sense?

17 A. I know we would try to talk about the case but
18 she wouldn't want to talk about it.

19 Q. Other than that, what was her demeanor at this
20 meeting?

21 A. She was again acting paranoid. I just
22 remember her, you know, looking over her shoulders and just
23 fidgety, yeah.

24 Q. About how long did this meeting with her last?

25 A. Probably less than ten minutes. It wasn't

1 Q. Did you ever hear Heather Lee talk about her
2 case?

3 A. She didn't talk about it to me, but she talked
4 about it to her girlfriend.

5 Q. Who was her girlfriend?

6 A. It was Jabali.

7 Q. Did you ever hear Heather tell Jabali that
8 Heather Lee bought the gas that was used in this murder?

9 A. Yes, ma'am.

10 Q. Did you ever hear Heather Lee tell Jabali
11 "That bitch deserved to die"?

12 A. Yes, ma'am.

13 Q. Do you know if Ms. Lee kept a journal?

14 A. She kept plenty of journals.

15 Q. She kept it -- I'm sorry?

16 A. She kept plenty of journals.

17 Q. Plenty of journals. Okay.

18 MS. SHIRLEY: May I have just a moment, Your
19 Honor?

20 THE COURT: Yes.

21 MS. SHIRLEY: No further questions, Your
22 Honor.

23 THE COURT: Cross-examination.

24 CROSS-EXAMINATION

25 BY MS. JENSEN:

1 Q. Ms. Moreland, my name is Bridgette Jensen.
2 I'm with the State Attorney's Office. Nice to meet you.
3 Ms. Moreland, when did this conversation between Jabali and
4 Heather Lee that you overheard, when did that take place?

5 A. At the rec.

6 Q. When?

7 A. At Homestead.

8 Q. When?

9 A. I don't know what date it was, but at
10 Homestead.

11 Q. How about a year?

12 A. I can't remember, ma'am.

13 Q. Okay. Well, you completed an affidavit that
14 you gave to the Defense that you knew her between 2012 and
15 2014; does that sound correct?

16 A. Yes. I was down there then, yes.

17 Q. So, you overheard this conversation in that
18 time frame 2012, 2014?

19 A. Yes, ma'am.

20 Q. And you just completed this affidavit for the
21 Defense on December 8th of 2021, correct?

22 A. Yes, ma'am.

23 Q. Ms. Moreland, isn't it true that you tried to
24 get romantic with Heather Lee and she refused your efforts?

25 A. No, ma'am.

1 And then about a month later, in the middle to end of
2 November, I basically went to all the same addresses again
3 in Pensacola looking for her and had like updated the search
4 and still did not have any luck finding her at that point.

5 Q. Did you make a third attempt to locate Ms.
6 Doyle?

7 A. Yes. So after that second time I knew that
8 she was on probation or parole. I can't remember which one
9 exactly, but she was under state supervision and that she
10 had -- it seemed like she had absconded. But I had been
11 checking like the Escambia County Jail roster and on
12 February 5th I saw that she was at the Escambia County Jail
13 and I set up a jail visit interview with her on that day.

14 Q. And this interview took place at the Escambia
15 County Jail?

16 A. Yes, it did.

17 Q. And tell us about the setup at the jail when
18 you met with Ms. Doyle?

19 A. The setup at the jail was, we were -- Ms.
20 Doyle and I were in a room that was like right off of like a
21 main dormitory. It was glass windows, so I was able to see
22 any other inmates. I saw her being walked into the room.
23 And when we were meeting we could see other inmates right
24 outside the room. That was more or less the setup of the
25 meeting.

1 was just there to talk about what she remembered about the
2 case. She had sat down with me, but then once I introduced
3 myself and said who my office represented and why I was
4 there, she clearly became very scared. She jumped up
5 instantly. She said she had nothing to say to me and she
6 asked for a guard to let her out of the room.

7 Q. So how long do you think that conversation
8 lasted?

9 A. It wasn't more than five minutes.

10 Q. Was that the last time you spoke with Ms.
11 Doyle?

12 A. No, it wasn't.

13 Q. So when did you speak with her again?

14 A. I went -- after that I scheduled another visit
15 with her almost three months later on April 29th at the
16 Escambia County Jail and we met again then.

17 Q. Did you meet with Ms. Doyle in the same room
18 inside the jail?

19 A. Yes, I did.

20 Q. So it had the glass windows?

21 A. Yes.

22 Q. And were there other inmates walking by during
23 your meeting with her?

24 A. There were.

25 Q. Was this a very long conversation?

1 A. No.

2 Q. What was her demeanor like during this second
3 conversation?

4 A. It was pretty much the same as the first
5 conversation. She was very scared. She said she had
6 nothing to say to me. It was pretty much exactly the same
7 as the first interview. She told me that she didn't want to
8 see me any more and not to come and try and talk to her any
9 more, but it was -- other than that it was pretty much
10 virtually the same.

11 Q. So how did the conversation end?

12 A. With her getting up and knocking on the door
13 and asking for the guard to come get her.

14 Q. And how long do you think that conversation
15 lasted?

16 A. Also probably no more than five minutes, if
17 five minutes.

18 Q. So was it your impression after meeting with
19 Ms. Doyle that she had no interest in discussing this case
20 further with you?

21 A. Yes.

22 Q. And that she wanted you to leave?

23 A. Yes.

24 Q. So after those two meetings did you have any
25 further contact with Ms. Doyle?

1 A. I did not.

2 MS. SHIRLEY: May I have a moment, Your Honor?

3 THE COURT: Yes, ma'am.

4 MS. SHIRLEY: No further questions, Your

5 Honor.

6 THE COURT: Cross-examination.

7 CROSS-EXAMINATION

8 BY MS. JENSEN:

9 Q. Hi, Mr. Stern. My name is Bridgette Jensen.
10 I'm with the State Attorney's Office. Because you're on
11 zoom we had a little bit of difficulty hearing some of your
12 dates. Can you help me out with when you were with
13 CCRC-North. I think you said July of 2015 through August of
14 2016.

15 A. That's correct.

16 Q. And then you had an in-person meeting with Ms.
17 Doyle the end of October 2016?

18 A. No. On February -- I had an in-person meeting
19 at Escambia County Jail with Ms. Doyle on February 5th, 2016
20 and April 29th, 2016.

21 Q. Okay. So both of your -- I'm sorry. Both of
22 your contacts with her were -- one was February 5th, 2016,
23 the other was April 29th, 2016?

24 A. That's correct.

25 Q. And prior to finding Ms. Doyle in jail, how

1 follows:

2 DIRECT EXAMINATION

3 BY MS. MACREADY:

4 Q. Can you please state your name for the record?

5 A. Brittany Dean.

6 Q. And where do you currently reside, Ms. Dean?

7 A. South Central Florida.

8 Q. Could you be more specific?

9 A. I don't really feel safe giving my address
10 out.

11 Q. Can you tell us why you don't feel safe?

12 A. I'm testifying in regards to a murder case.

13 Q. Okay. Do you recall being incarcerated at the
14 Escambia County Jail around 2010?

15 A. Yes.

16 Q. Do you need a minute?

17 A. Yeah. Is there a way to turn the volume up
18 just a little bit because it's kind of echoey? Yes, that's
19 fine.

20 Q. Is that better?

21 A. Yes.

22 Q. All right. Let me go back, actually. Have
23 you ever been convicted of a felony or a crime of
24 dishonesty?

25 A. A felon, yes.

1 Q. How many times?

2 A. Twice.

3 Q. Okay. All right. So do you recall being
4 incarcerated at the Escambia County Jail around 2010?

5 A. Yes.

6 Q. Do you recall an inmate named Heather Lee?

7 A. Yes.

8 Q. Did you know Heather Lee before you were
9 incarcerated?

10 A. No.

11 Q. How did you know her at the jail?

12 A. She was my bunkie.

13 Q. And did you socialize with her at all?

14 A. Yes. Yeah. I mean sleeping next to somebody,
15 so it kind of breaks the ice of discomfort, I guess.

16 Q. So let me ask you about that. So you said you
17 were bunkies. Can you explain how the beds are set up
18 there? Were you like sleeping shoulder to shoulder with her
19 or like how was it set up?

20 A. Shoulder to shoulder. The way that the bunks
21 were set up, it's four bunks connected and there is a metal
22 piece that goes down the middle and you have top bunks,
23 bottom bunks, top bunks, bottom bunks. My bunk -- I was the
24 dorm orderly. I was on the one side of the bunk and she was
25 on the top bunk and she was on the next side of the top

1 bunk.

2 Q. So you were both on the top bunk, top bunks?

3 A. Yes.

4 Q. Did you play cards with her or socialize other
5 than --

6 A. We played spades.

7 Q. Okay.

8 A. A few times. And we've talked before.

9 Q. So you were friendly with her?

10 A. Yes. I would say so.

11 Q. Did she ever talk to you about her case?

12 A. She has.

13 Q. Did she ever talk to you about her role in the
14 murder?

15 A. I'm sorry. Yes.

16 Q. Okay. Are you nervous being here today?

17 A. A little bit.

18 Q. Did she tell that you that she was the one
19 that poured the gas on the victim, or that she lit the match
20 to set her on fire?

21 A. It's been thirteen years. She -- I remember
22 her saying that Tina Brown was in the car. Brittany Miller
23 and Heather Lee, from what I can remember, they beat on the
24 girl and I guess put her inside of a car and I guess Tina
25 Brown was the one driving and they drove her somewhere into

1 a wooded area. She never specified about who lit the girl
2 on fire, from what I can remember -- I'm sorry. I'm so
3 nervous right now.

4 Q. That's okay. Just take a deep breath. You
5 can take a minute if you need to.

6 A. I remember conversations of her saying she
7 felt guilty. I guess she, from what I can remember, she
8 basically took a plea deal and testified and she admitted
9 that she lied. And from my understanding Tina Brown,
10 basically was willing to take the death penalty to protect
11 her daughter, I guess.

12 Q. So let me ask you, did you ever hear Heather
13 Lee make any comments along the lines of she wished she'd
14 made sure she actually killed the victim so she wouldn't
15 have been able to name her?

16 A. She had -- she did make a comment before
17 saying that she wished she would have went back and made
18 sure she was dead and none of this would have ever happened.
19 I guess the girl gave her name or something and she was in
20 the hospital of some sort, the lady ended up going to the
21 hospital and she ended up dying like a few days later or
22 something. I can't really quote word-for-word because it's
23 been thirteen years.

24 Q. Right. Okay. Did you ever hear or see
25 Heather Lee threaten other inmates at the jail?

1 MS. JENSEN: Judge, I'm going to object to
2 relevance.

3 THE COURT: I'm going to overrule it. I'll
4 hear it. I'll overrule the objection.

5 A. She's never said anything to me specifically.
6 She never came at me in any kind of mean way or anything.
7 If anything, she used to ask me to pray with her and stuff.

8 Q. Would she --

9 A. But she would -- she was considered a dorm
10 bully, like people with like kind of stronger personalities
11 would kind of like try to gain her approval.

12 Q. Let me ask you this Ms. Dean. Did you ever
13 hear her threaten anyone saying that she would burn them
14 like she'd done to the victim?

15 A. She's made comments like I'll burn your ass up
16 too or --

17 Q. Okay.

18 A. She's -- she said things along those sorts to
19 people.

20 Q. Let me ask you about -- do you recall -- do
21 you recall writing a letter on her behalf for her
22 sentencing?

23 A. No.

24 Q. Do you remember I sent you a copy of the
25 letter with your signature?

1 A. Yes. That's not my signature. I don't write
2 in cursive.

3 Q. Was that your handwriting in the letter at
4 all?

5 A. It looks almost similar to my handwriting, but
6 it's not my handwriting.

7 Q. Were there also things in the letter that led
8 you to believe that you didn't write that, any reference to
9 people?

10 A. I know I didn't write that because I didn't
11 know her outside of prison, out of jail. I didn't -- it was
12 things saying that she was an excellent mother. I wouldn't
13 know what type of mother she is to her child or her kids or
14 what kind of person she was on the outside of where I met
15 her at, which was in the Escambia County Jail.

16 Q. Do you know her cousins or any of her
17 relatives that are mentioned in that letter?

18 A. No.

19 MS. MACREADY: One moment, Your Honor.

20 THE COURT: Okay.

21 MS. MACREADY: No further questions, Your
22 Honor.

23 THE COURT: Cross-examination.

24 CROSS-EXAMINATION

25 BY MS. JENSEN:

1 Q. Ms. Dean, these statements that Heather Lee
2 supposedly made to you were in 2010, correct?

3 A. That is correct.

4 Q. So we're now in 2023. Where have you been the
5 last thirteen years?

6 A. Well, I did end up doing six years in prison
7 from there and I got out and I was living in -- I went and
8 did my last six months in work release. I got out June 21st
9 of 2016 and I was living in the Tampa Bay area for about
10 four years and -- I mean living my life. I don't know what
11 kind of specific answer you're looking for.

12 Q. Well, you've been around the State of Florida
13 for the past thirteen years. Why have you never reported
14 this statement before?

15 A. You're looking at a severe murder charge.
16 You're in prison. I mean everybody talks about their cases
17 and --

18 Q. But you were only in prison for six years;
19 what about when you got out?

20 A. It's not my -- I'm not thinking oh, hey, let
21 me go down and tell people something in regards to a case
22 that happened that you never know if what truth is behind
23 what people say anyway. People always boost up their
24 stories. People put their case like that is --

25 Q. Right. So Heather Lee could have --

1 this is.

2 Q. (By Ms. Macready) Ms. Dean, can you see this?
3 Does this look like the letter that I sent to you to see if
4 you recognized --

5 A. You probably have to come way closer than
6 where you are.

7 THE COURT: I don't know if you can get there.

8 Q. (By Ms. Macready) Is that any better?

9 A. Literally, the lines are like so tiny, I can't
10 --

11 THE COURT: Do you want to go around that way
12 and see if you can hold it up there? The deputy looks
13 like he might be able to help you. I don't know.
14 Thank you, sir. That might be a little easier.

15 MS. MACREADY: I feel a little silly here.

16 THE COURT: No, you're good.

17 Q. (By Ms. Macready) Can you see it now? Can you
18 see any of it? Or can you see the signature and tell
19 whether that's your signature?

20 A. No, that's not my signature. I don't write in
21 cursive.

22 Q. Is that your handwriting in the body of the
23 letter?

24 A. It's not my letter. I didn't write that
25 letter.

1 Q. This is the same one that I showed you
2 previously?

3 A. Yes, that is the same letter.

4 MS. MACREADY: Judge, I don't have any further
5 questions.

6 THE COURT: What number --

7 MS. MACREADY: It's Defense Exhibit seven for
8 identification.

9 THE COURT: Are you going to want to admit it?
10 Or do you just want it to go with the record as
11 evidence?

12 MS. MACREADY: Just go with the record. We
13 don't need it as an exhibit.

14 THE COURT: It's not admitted, but will go
15 with the record. Any objection -- it's not admitted,
16 but it will go with the record. That's fine.

17 MS. MACREADY: I don't have any further
18 questions, Your Honor. And we won't need Ms. Dean.

19 THE COURT: Anything based on that? No
20 questions?

21 MS. JENSEN: No, Judge.

22 THE COURT: All right. Ma'am, you're free to
23 go. Thank you so much.

24 THE WITNESS: Okay. Thank you.

25 THE COURT: So, Ms. Russell?

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA**

**STATE OF FLORIDA,
Plaintiff,**

v.

CASE NO. 2010-CF-001608

**TINA BROWN,
Defendant.**

**THIRD AMENDED MOTION TO VACATE JUDGMENTS OF CONVICTION
AND SENTENCE WITH SPECIAL REQUEST FOR LEAVE TO AMEND**

TINA BROWN, Defendant in the above-captioned action, respectfully moves this Court for an Order, pursuant to Fla. R. Crim. P. 3.851, vacating and setting aside the judgments of conviction and sentence, including her sentence of death, imposed upon her by this Court. Ms. Brown respectfully requests leave to amend within sixty (60) days after the receipt of any outstanding public records that, for any reason, have not been provided during public records litigation.

Ms. Brown reserves the right to make supplemental requests until she receives all public records she is entitled to under Florida law. Ms. Brown requests leave to: (1) supplement and/or amend this motion with any newly discovered evidence or public records that become available thereafter; (2) add claims; and (3) provide a memorandum of law in support of her claims for relief.

Ms. Brown also requests the opportunity to be heard on her postconviction motion. Huff v. State, 622 So. 2d 982 (Fla. 1993). She further requests that this Court grant an evidentiary hearing on her motion, as the files and records do not conclusively rebut her claims. See Lemon v. State, 498 So. 2d 923 (Fla. 1986). The relief sought herein should therefore be granted.

CITATIONS TO THE RECORD

The following symbols will be used to designate references to the record: "T" refers to the transcript of trial proceedings; "R" refers to the record on direct appeal to the Florida Supreme Court. All other references will be self-explanatory.

altercation between the two women.

Catherine Booker was the secretary for Patrina Moye, the landlord of the trailer park, where Brown, Miller, Lee, and Zimmerman all lived. Ms. Booker had a conversation with the victim, just days prior to the murder, during which the victim was visibly upset and said that something happened with Heather Lee, although she did not elaborate.

Furthermore, because counsel failed to conduct any factual investigation or preparation for trial, he never found any evidence to disprove Heather Lee's testimony about the events that occurred the night of the murder. Had counsel properly investigated the case, he would have discovered that, in addition to Lee's strained relationship with the victim, each of the weapons used (taser, crowbar, and gas can) during the commission of the crime had all come from Heather Lee's home.

Critically, had counsel investigated and prepared, he would have discovered that just *prior* to the murder, Heather Lee told her husband, Darren, and Terrance Woods, that Darren would not be sleeping with "that bitch" anymore – referring to Ms. Zimmerman and indicating a clear intent to get rid of Zimmerman. Subsequently, a few days *after* the crime occurred, Heather Lee confessed to the crime in front of her husband and Terrance Woods, stating that she had murdered the victim and that Darren Lee was "not going to have that bitch to sleep with anymore". Had counsel prepared for trial, he would have most certainly called these two individuals as witnesses, as their testimony makes it clear that Heather Lee was the one who not only had a motive to murder Ms. Zimmerman, but who did, in fact, plan to kill her.

Additionally, trial counsel had information concerning a rumor at the Escambia County Jail that Heather had confessed to planning and carrying out the murder. Had trial counsel hired an investigator to look into this rumor, he would have uncovered the following information: Nicole Henderson was incarcerated at the jail during the same time as Ms. Brown and Lee were there awaiting trial and was available to testify. Henderson has not only known Lee and her reputation

for violence since approximately 2009, but has witnessed this violent behavior first hand. Her first interaction with Lee involved Lee threatening to kill Henderson's younger sister. This was because Lee believed her husband wanted to have sex with Henderson's sister. Henderson also knew Lee from the Pensacola nightclub scene, where Lee often broke glass bottles and threatened to cut people. Henderson recalls seeing Lee many nights when she did, in fact, cut people.

During the time that Henderson was incarcerated at the Escambia County Jail with Lee between 2011 and 2013, she heard a number of incriminating statements made by Lee. On one occasion, Lee stated to Henderson and a group of inmates that the murder she was locked up for happened because the victim was sleeping with her (Lee's) husband. On several other occasions, Heather Lee bragged to her and to other inmates that she would be getting off easy because she was working with the State. Lee told Henderson, as well as other inmates, that she had it set up very well because she had told two juveniles to testify against Britnee Miller and Tina Brown. She admitted that she told these witnesses what to say, and that in fact, Britnee Miller had not told them anything. Lee said because she is from Pensacola, and her co-defendants Britnee Miller and Tina Brown were not, it was more important she get the best deal to go home early.⁷

Furthermore, had counsel properly investigated Heather Lee, he would have discovered that she and her family have a history of paying witnesses and victims in criminal cases to not come forward, to refuse to testify, or to become non-cooperative with the State Attorney's Office. Lee had even previously asked Ms. Brown to beat up a witness in Heather Lee's brother's case in late 2009. This would have refuted Heather Lee's testimony at trial that Ms. Brown was threatening or forcing her to take part in the murder.

Second, trial counsel failed to depose or investigate Mallory Azriel. Ms. Azriel testified at trial that she witnessed Heather Lee showing Ms. Brown how to work a taser prior to the victim arriving at Ms. Brown's trailer. (T. 465). Ms. Azriel further testified that she witnessed Ms. Brown

⁷ These facts are also plead in the alternative as newly discovered evidence in Claim 8.



RANDALL J. ETHERIDGE, P.A.
ATTORNEY AND COUNSELOR AT LAW

HAND DELIVERED

Honorable Gary Bergosh
Circuit Court Judge, First Judicial Circuit
M.C. Blanchard Judicial Bldg.
190 Governmental Ctr.
Pensacola, FL 32502

ADMITTED TO PRACTICE IN:
United States Supreme Court
Florida Supreme Court
Lower Federal Courts
State Courts
ERNEST LEE MAGAHA
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL
JUN 20 P 5:01
CIRCUIT CRIMINAL DIVISION
FILED & RECORDED

Re: State v. Heather Trinee Lee
Case: 2010 CF 1608 B

June 19, 2012

Dear Judge Bergosh,

I am writing on behalf of my above-named client who is currently scheduled for sentencing before this Honorable Court on July 19, 2012.

Ms. Lee has successfully completed several classes during her period of incarceration at the Escambia County Jail and she has asked me to submit the enclosed certificates to the Court for purposes of mitigation at sentencing. I have also received numerous character reference letters from Ms. Lee's friends and family members who would like to express their care and concern for the matters at hand. Please accept these documents on behalf of the Defense for this Honorable Court's consideration at sentencing.

Thank you in advance for your kind attention and consideration to this request and please do not hesitate to contact my office at any time with questions, comments or concerns.

Sincerely,

Randall J. Etheridge, Esq.

Cc: Circuit Criminal Clerk's Office

Bridgette Jensen, Esq.
Assistant State Attorney

Ms. Heather Lee
Defendant @ Escambia County Jail

Case: 2010 CF 001608 B



00033219834

Dkt: CORRESP Pg#:

EXHIBIT C

Judge Bergosh,

My name is Brittany Dean, I am writing this letter due to Heather Trinee Lee. I have been aware of her stay in Jail. I know this person personally through her cousin Antonio who I collaborated and recorded music with. I've known Heather now for 4 years and is known to be a loving mother of 4 children and a wonderful wife of a husband. Through all the years that I've known Heather Lee she has been a very giving and caring person. This is a person I trust with my child and a person who has not only helped me through a abusive relationship but also got me out of an abusive relationship. She has been a good friend, a great mother, a wonderful wife, and also a Christian. This is a woman with high faith in God and a friend who has led my life into the right direction. She is the kind of person who has a sense of humor, laughing, and she is very concerning about people. I know to have a big heart. I thank you for taking the time to read this and I pray to God that this will give you an insight of who Heather

ERNIE E. MAGAHA
CLERK OF CIRCUIT COURT
ESCAMBAULT COUNTY MI
2017 JUN 20 5:02
CIRCUIT CRIMINAL DIVISION
FILED & RECORDED

-Brittany Dean-

2/20/12

Honorable Judge Bengosh,

I am writing this letter on behalf of a very dear and sincere friend, Mrs Heather Lee. I've known her over 10 years. She has always been a family oriented woman. Sir, Mrs Lee is not a violent woman at all. Very loving, caring, sharing and even sympathetic toward others. She is know throughout her neighborhood for taking care of those who are less fortunate. She has personally helped me to help keep myself clean and sober. This young lady has small children, husband, and a home that she has been away from quite some time now.

ERNIE LEE MAGAHA
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL

2012 JUN 20 P 5: 03

CIRCUIT CRIMINALS DIVISION
FILED & RECORDED

They need her and want her home. I sincerely believe

→
Turn over →

She understands the importance of being in the wrong place and wrong time. Even the company she was with.

Being away from her family is great punishment.

Sir. I ask the court to have mercy on her. And

see that she was put in a very compromising situation which could have been life or death for herself.

Thank You Your Honor, for your time and consideration.

Respectfully Written

Datoria S. Frazier
2/20/12

To: The Honorable Judge Benjamin

From: Corie K. Doyle

Your Honor,

I am writing you to inform you of my opinion on the character Mrs. Heather T. Lee.

With all due respect, Mrs. Lee has been very supportive and understanding of the feelings and well being of others. She has a wonderful comforting ability that she applies to those who are in emotional distress. She is friendly to all who approach her and shows her concerns to all who speak to her of their problems.

She is a wonderful person who has great morals and life long goals. A woman with dreams for herself and her family.

I have spent many months with Mrs. Lee to be able to rightfully speak on her behalf.

I ask that you take these words and trust that my experience with Mrs. Lee is accurate and should be taken into consideration.

Thank you for your time.

Very sincerely,

Corie K. Doyle
Corie K. Doyle

ERNE LEE MAGAHA
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL
2012 JUN 20 PM 5: 03
CIRCUIT CRIMINAL DIVISION
FILED & RECORDED

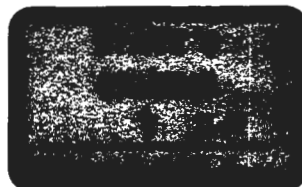
State of Florida)
) SS
County of Escambia)

AFFIDAVIT/DECLARATION OF CORIE KENDAL RUSSELL

PURSUANT TO 28 U.S.C. § 1746

I, CORIE KENDAL RUSSELL, having been first duly sworn or affirmed, hereby state the following as true and correct:

1. My name is Corie Kendal Russell. Corie Doyle was my married name. I reside in Escambia County, Florida. From 2011 through 2012, I was incarcerated at the Escambia County Jail, serving a sentence for grand theft auto for taking my boyfriend's car.
2. I was housed on 4 West (4W) dorm inside the jail before later moving to 4 East (4E). A friend of mine, ^{OK - LATORIA} Latrovia Frazier, warned me to stay away from a particular woman. Though I did not know her name at that point, I later learned that it was Heather Lee. Heather was aggressive and hostile towards other inmates.
3. I knew what the lime green jumpsuit Tina Brown wore meant before I met her in 4E. Heather Lee wore the same jumpsuit. It meant she was a high risk offender or facing serious felony charges ~~such as murder~~. This was common knowledge among inmates.
4. For the several weeks I was in 4E, Tina did not appear to be capable of taking care of herself. She was heavily medicated, often sleeping or laying down on her bunk all day, ~~and she slurred her words when she spoke, which was rarely~~. It appeared to me that it took a lot of energy for her to even move. ~~When she was not laying down, she often sat, rocking back and forth~~. I learned later from talk among inmates that Heather's husband sold drugs to Tina. ~~Tina seemed to be an addict~~.



5. I later returned to 4W. I was placed in a bunk next to Heather Lee. We were within arm's reach of each other. Heather was not approachable, and I understood what ~~Latrovia~~ ^{QTB - LATROVIA} meant earlier. I was afraid to talk to Heather and upset her.
6. Over time it was easier to have a conversation with Heather. When Heather and I became more acquainted, I decided to approach her with information about her case involving her co-defendants, Tina and Britnee Miller. Ultimately, Heather and I discussed the case. Heather said she would contact her attorney, Randall Etheridge, and have him speak to me.
7. During the conversation, Heather admitted to me her involvement in Audreanna Zimmerman's murder. Heather told me that she and Tina attacked and used a Taser on Audreanna ~~at a trailer~~. Audreanna was dragged into a car. ~~Tina drove while Heather was in the backseat holding onto Audreanna's hair.~~ Britnee Miller, Tina's daughter, was also with them. Heather used the Taser on Audreanna whenever she spoke or pleaded to Heather to let her go. Heather was involved in Audreanna's death.
8. Heather directed me to make false statements about Tina's alleged confession to Heather's attorney, the State Attorney's Office, and anyone else who collected my statements about this. Heather led me to believe Audreanna's death was caused by Tina and Britnee because Britnee and Audreanna had a fight over a young boy they were both interested in. Heather asked me to testify that Tina informed me that Heather had nothing to do with the murder but knew about it. Heather asked me to testify that she and I had no conversations about her case and that she only told me to get in contact with her attorney.
9. Heather threatened me to "not fuck up" any statements or testimony I would give regarding Tina's alleged confession - "or else". If I were to do what she asked, Heather

said everything would be fine. I took this as a threat that I could either be physically hurt or killed. I believed correctional officers and law enforcement could not protect me if I did not agree to Heather's demands. Life inside jail does not guarantee anyone's safety. I know because I have experienced it.

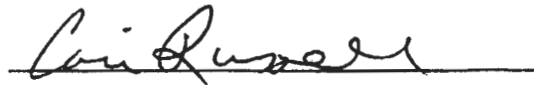
10. Tina did not tell me the altercation between Britnee and Audreanna was over a young boy. Tina did not tell me that Heather was not involved in the attack on Audreanna.

11. I have reviewed my testimony to the above and I acknowledge it was untrue. Before and during my testimony at Tina's trial, I was under great pressure and duress from Heather's threats to testify untruthfully. I felt I had no other choice but to maintain what I provided in previous statements to attorneys.

12. Since testifying at Tina's trial I have been afraid to come forward with the above information because of the threats Heather made toward me.

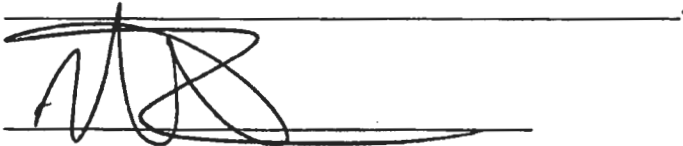
I hereby certify that the facts set forth are true and correct to the best of my personal knowledge, information, and belief, subject to the penalty of perjury, pursuant to 28 U.S.C. §1746.

FURTHER AFFIANT SAITH NAUGHT,



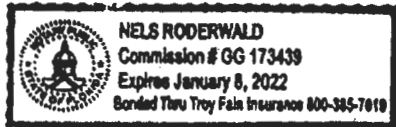
Corie Kendall Russell

Sworn to (or affirmed) and subscribed before me this 12th day of December, 2021 by Corie Kendal Russell who is personally known to me or who has provided the following identification:



Notary Public, State of Florida

SEAL:



IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

CASE NO: 2010 CF 1608A

TINA LASONYA BROWN,

Defendant

_____ /

Proceedings held in the above-styled cause before the Honorable Gary Bergosh, Circuit Judge, on the 24th day of January, 2024, at the M.C. Blanchard Judicial Building, 190 Governmental Center, Pensacola, Florida 32502.

HYACINTHE REAVES
CIRCUIT COURT REPORTER

EXHIBIT E

APPEARANCES:

FOR THE STATE:

BRIDGETTE JENSEN, ESQUIRE
Assistant State Attorney
190 Governmental Street
Pensacola, Florida 32502

FOR THE ATTORNEY
GENERAL:

STEPHEN D. AKE, ESQUIRE
Senior Assistant Attorney General,
Office of the Attorney General
3507 East Frontage Road, Suite 200
Tampa, Florida 33607

FOR THE DEFENDANT:

DAWN MACREADY, ESQUIRE
CHELSEA SHIRLEY, ESQUIRE
Assistant Capital Collateral Regional
Counsels-North
175 Salem Court
Tallahassee, Florida 32301

ALSO PRESENT:

ADELE GIBSON, ESQUIRE
Staff Attorney

1 relevant to Ms. Kendal's testimony that Heather
2 threatened her into testifying falsely.

3 THE COURT: All right.

4 THE WITNESS: Heather was one -- she was like
5 a bully, you know, bullied people into everything,
6 anything, but that's when she come upstairs. You know,
7 she had to come upstairs from downstairs. So she kind
8 of bullied people and she's pretty intimidating.

9 Q. Did you --

10 A. But the old her wasn't like that. So I
11 don't --

12 Q. Did you ever witness Heather bully other
13 inmates?

14 A. Oh, yeah, especially by the telephone. She
15 bullied everybody.

16 Q. Did she ever go to lock up for this behavior
17 or solitary?

18 A. She went down to lock up a couple of times.

19 Q. Okay. And did you and Kendal ever talk about
20 Heather Lee?

21 A. One time, not necessarily just talk about her,
22 but Kendal came to my bed one day crying.

23 Q. And why was she crying?

24 A. She said, Latoria, she said --

25 MS. MYERS JENSEN: Judge, I'm going to object

1 to hearsay.

2 MS. SHIRLEY: Your Honor, it is relevant for a
3 prior consistent statement that she did not make up the
4 story she came in and told the Court in March about
5 Kendal bullying her.

6 THE COURT: State, do you believe that
7 qualifies as prior consistent statement?

8 MS. MYERS JENSEN: No, Judge, I do not.

9 THE COURT: Let me do this: Let me hear the
10 testimony. I'm going to reserve the ruling. I just
11 want to get it out there. It may be that it is hearsay
12 that can't come in, Ms. Macready. But for the purposes
13 of getting a complete record, I'll take your proffer.
14 I'll rule on whether I believe you can get around the
15 hearsay.

16 So, State, I'm just going to allow her to
17 testify. I'm not saying I'd allow it in for any other
18 record. I just want to hear it. Okay?

19 MS. MYERS JENSEN: Understood.

20 THE COURT: All right.

21 Q. (By Ms. Shirley) Okay. Did Kendal -- why was
22 Kendal crying?

23 A. Kendal came to my bunk and she said that --
24 she was like, Toy -- she said, Heather -- Heather is trying
25 to get me to -- to lie. I said, Lie about what? But she

1 said, She just wants me to go lie in court for her. And the
2 way she was crying, like, she was just devastated. And I
3 just -- the first thing I told her was, look, don't even get
4 involved because you don't know what can happen to you, you
5 know, thinking that it is a murder case. You don't know
6 what can happen to you. And I said, So just -- I said,
7 Don't worry about it. She can't make you do anything. And
8 she was mainly upset and she -- whatever she threatened her,
9 she threatened her good enough to have her scared for her
10 life and Russell's life, which was her boyfriend.

11 Q. Okay. And what was Kendal's demeanor like
12 when she was telling you this? What was --

13 A. Petrified.

14 Q. Okay. Was she crying?

15 A. Yeah, she was -- she was boohoo crying.

16 Q. Okay.

17 A. So I just told her calm down. But she really
18 couldn't calm down. She was, you know --

19 Q. Did she seem afraid?

20 A. Oh, yeah. She -- she was terrified.

21 Q. For herself?

22 A. Herself, but more her boyfriend.

23 Q. Okay.

24 A. More him because he's in the free world and
25 she was locked up, but more him.

1 Q. Okay. And what date did someone come talk to
2 you about this case?

3 A. I just know it was June, in June of '22. But
4 the actual date, I can't.

5 Q. Okay. And did you tell Nels substantially the
6 same thing that you testified here today?

7 A. Yes.

8 Q. Okay. And is it recorded in the affidavit?

9 A. Yes.

10 MS. SHIRLEY: Your Honor, may I have just a
11 moment?

12 THE COURT: Yes.

13 (Pause in proceedings)

14 MS. SHIRLEY: That's all we have, Your Honor.

15 THE COURT: All right. Any cross-examination
16 from the State?

17 CROSS-EXAMINATION

18 BY MS. MYERS JENSEN:

19 Q. Ms. Frazier, Kendal came to you in 2010 and
20 said that Heather Lee told her to lie, correct?

21 A. That she asked me to lie, yes, ma'am.

22 Q. Is that what she said?

23 A. She answered to say that Heather Lee wants me
24 to lie in court.

25 Q. Okay. But she didn't tell you specifically

1 about what, just lie?

2 A. Right. She didn't tell me what it was about.

3 Q. Okay. And that was 14 years ago, in 2010,
4 correct?

5 A. Yes.

6 Q. Why didn't you tell anyone back then?

7 A. I didn't think she would go. I mean, I didn't
8 think anything else of it, you know, I didn't think that
9 Kendal was going to go to court or anything like that
10 because Kendal's not really that type of person to be
11 dealing with stuff like that.

12 Q. Okay. Well, you knew all these people were
13 charged with a very serious murder, correct?

14 A. Right.

15 Q. And you didn't find it important enough to
16 tell someone that Heather Lee supposedly told Kendal to lie?

17 A. Okay. Well, first, the Heather Lee I knew
18 really wasn't -- wouldn't be involved in something like
19 that. That's the Heather Lee I knew. She was, you know, a
20 family person, you know, so I didn't really even believe
21 Heather did -- you know, did all that.

22 Q. Did all what?

23 A. She did -- had anything to do with a murder.

24 Q. So you didn't think Heather Lee was involved
25 in the murder itself?

1 A. No, I didn't because I didn't think anything
2 further of it.

3 Q. Okay. And then in 20 -- you described Heather
4 Lee as a bully a minute ago; did you not?

5 A. Yes, ma'am.

6 Q. But in 2012 you wrote a letter to this judge
7 when Heather was getting sentenced about what a great person
8 she was, correct?

9 A. That's the person I knew.

10 Q. Okay.

11 A. And the person --

12 Q. Did you mention anything in that letter about
13 her being a bully then?

14 A. No, because at that time she hadn't even
15 changed into that person.

16 Q. Okay.

17 A. She was just like recently coming upstairs.

18 Q. That affidavit that the Defense showed you; is
19 that your writing?

20 A. No, ma'am, it's not.

21 Q. Who wrote that?

22 A. Mr. Nels.

23 Q. Why didn't you write it?

24 A. I mean, this is what he prepared. This is
25 what -- he didn't prepare it, but these are the -- he asked

1 Q. Who testified?

2 A. No.

3 Q. Okay. At some point in your relationship with
4 Heather, did you lose touch with her?

5 A. That was years before she even -- like years
6 before she even got arrested for anything.

7 Q. Is when you lost touch with her?

8 A. Right. Right.

9 Q. When you wrote this letter for Heather, did
10 you write this letter for -- on Heather's behalf before or
11 after Kendal came to see you?

12 A. This was well before.

13 Q. Before Kendal --

14 A. Before Kendal ever came to see me.

15 Q. Okay. Would you have written this letter for
16 Heather if you had known all the things she was doing to
17 Kendal?

18 A. No, I wouldn't. But again, the Heather that I
19 knew prior was a different Heather than what I'd later seen
20 in the jail.

21 Q. Okay. In the affidavit that we referenced --

22 MS. SHIRLEY: And Your Honor could I put
23 marked for identification purposes so the record is
24 clear what we're talking about?

25 THE COURT: Do we have a clerk there or no?

1 through her house, she's just a loving chick, you know, she
2 would look out for a lot of people. She would feed
3 everybody, you know, and she's always with her kids, but --
4 so this other person is somebody I didn't know, you know.

5 MS. SHIRLEY: Okay. Thank you.

6 We have nothing further, Your Honor.

7 MS. MYERS JENSEN: Judge, could I just clarify
8 one thing? I'm sorry.

9 THE COURT: Yes, ma'am.

10 RE CROSS EXAMINATION

11 BY MS. MYERS JENSEN:

12 Q. Ms. Frazier, did you say that you wrote a
13 letter on behalf of Heather Lee before Corie Doyle came to
14 you?

15 A. Yes.

16 Q. And that you would not have written that
17 letter if you'd had the information about Corie Doyle?

18 A. I'm going to say I wouldn't have -- I probably
19 wouldn't have wrote the letter. I probably just wouldn't
20 have wrote anything. But again, I do know that -- I do know
21 from what I knew she was a great person.

22 Q. Okay. But --

23 A. But no.

24 Q. -- you wrote the letter -- you're saying you
25 wrote the letter --

1 A. I wrote --

2 Q. -- before Corie Doyle came to you about the
3 lying?

4 A. Right.

5 MS. MYERS JENSEN: Okay. Thanks.

6 THE COURT: All right. Anything on that?

7 MS. MYERS JENSEN: No. Judge, I just would
8 like to point out that in the affidavit it says that
9 Corie Doyle came to Ms. Frazier in the early 2010s and
10 that letter was written in 2012.

11 THE COURT: I did catch that. It will be
12 noted for the record.

13 MS. MYERS JENSEN: Thanks.

14 THE COURT: Okay. Any other issues we need to
15 handle?

16 MS. MACREADY: Judge, I do have a few things.

17 MS. MYERS JENSEN: Can Ms. Frazier be -- is --
18 are we done with her?

19 MS. MACREADY: Yes.

20 MS. MYERS JENSEN: Okay. I just didn't know
21 if she was uncomfortable standing there.

22 MS. MACREADY: Judge, we can excuse Ms.
23 Frazier as a witness since we're done with --

24 THE COURT: Ms. Frazier, I'm not going to take
25 you into custody. But if you get a subpoena to come to

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA
STATE OF FLORIDA,

vs.

CASE NO: 2010 CF 001608

TINA LASONYA BROWN,

Defendant

_____/ VOLUME III

Proceedings held in the above-styled cause before the
Honorable Gary Bergosh, Circuit Judge, on the 18th, 19th,
20th, 21st, 25th and 26th days of June, 2012, at the M.C.
Blanchard Judicial Building, 190 Governmental Center,
Pensacola, Florida 32502.

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CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL

I N D E X

	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
1					
2					
3	Terrence Hedrick	348	353		
4	Hercules Kinnard	354	360	370	
5	Susie Davis	371	377	381	
6	Caleb Lukkar	382	385		
7	Solange Garcia	391	412		
8	Jennifer Jones	423	427		
9	Christine Percell	429	438		
10	Mallory Azriel	448	465	479	
11	Candy Zuleger	481	489		
12	Lee Tyree	491	500		
13	Heather Lee	511	535	552	
14	Pamela Valley	561	568	575	
15	Willie Bradley	577			
16	LeeAnn Hodge	581	593	602	
17	Corey Doyle	604	610	614	
18	Eugene Hart, M.D.	623			
19	Wendy Moye	636	640	643	644
20	Gerald Dwain Coleman	756			
21	Cheryl Coleman	772			
22	J.C. Coleman	788			
23	Willie Coleman, Jr.	809	823		
24	Dionte Miller	825			
25	Greg Miller	832			

I N D E X (Continued)

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Elaine Bailey	847	939		
Dr. John Bingham	1001	1025	1038	

E X H I B I T S

<u>STATE EXHIBITS</u>	<u>MARKED</u>	<u>IN EVIDENCE</u>
No. 1 - 2		393
No. 3 - 5		394
No. 6 - 18		404
No. 19		406
No. 20		406
No. 21		408
No. 22 - 25		409
No. 26 - 28		411
No. 29 - 33		426
No. 34 - 38		431
No. 39 - 40		433
No. 41 - 46		435
47		580
48-52		616
53		753

REDIRECT EXAMINATION

1
2 BY MS. JENSEN:

3 Q. Mallory, did you see Heather Lee hit Audreanna
4 in the trailer?

5 A. No, sir -- I mean, no, ma'am.

6 Q. Did you see Heather Lee stun Audreanna in the
7 trailer?

8 A. No, ma'am.

9 Q. Did you see Heather Lee beat Audreanna in the
10 trailer?

11 A. No, ma'am.

12 Q. What was she doing? What was Heather Lee
13 doing as Tina Brown was shocking Audreanna Zimmerman?

14 A. Basically standing there watching like me and
15 Britnee were.

16 Q. You didn't see Heather Lee kick Audreanna
17 while she was down?

18 A. No.

19 Q. Did you see Heather Lee lead Audreanna to the
20 car?

21 A. No, ma'am.

22 Q. Was Tina Brown the only one leading her?

23 A. Yes, ma'am.

24 Q. I just want to clarify something. You said
25 that you saw Audreanna -- did you say get in the truck or in

1 Ms. Zimmerman had accused Ms. Brown of having
2 her boyfriend arrested and calling DCF on her. And she had
3 a window broke that she accused Ms. Brown of doing, and that
4 sort of stuff.

5 Q. Did Tina Brown tell you how Audreanna
6 Zimmerman and Heather Lee got along?

7 A. She said that they talked more than her and
8 Zimmerman did, so I guess they were a little closer.

9 Q. Did Ms. Brown indicate to you that on the day
10 of this incident that Heather Lee and Audreanna had had any
11 problems?

12 A. No.

13 Q. Okay. Did you ask Ms. Brown how Audreanna
14 Zimmerman and Ms. Brown's daughter, Britnee Miller, got
15 along?

16 A. Yeah. They apparently had gotten into a fist
17 fight and Ms. Zimmerman had apparently tased or attempted to
18 tase Britnee Miller, her daughter.

19 Q. Did Ms. Brown tell you when that incident
20 occurred in relation to March 24th of 2010?

21 A. She probably did. Off the top of my head, I
22 want to say a day or so before. But I'm not 100 percent.

23 Q. Did you ask Ms. Brown about the taser?

24 A. I did.

25 Q. And what did she tell you about it as far as

1 how Audreanna tried to use it on Britnee Miller?

2 A. She said it was loud. She described it as
3 being small and black. I just know she tried to tase her.
4 I don't remember specifically if she did an overhand move or
5 something like that, if that's what you're asking.

6 Q. When you say "she," you're saying Audreanna
7 Zimmerman tried to tase Britnee Miller?

8 A. Britnee, right.

9 Q. Did you ask her where she was when you had
10 knocked on her doors earlier?

11 A. Yeah. She said she was in that trailer?

12 Q. Was there any reason why she didn't answer the
13 door for the police?

14 A. She said it wasn't her door.

15 Q. Did you take a buccal swab from Ms. Brown on
16 this night? I guess it would be March 24, 2010.

17 A. Yes, I did.

18 Q. And did you also have a crime scene person
19 there?

20 A. Yes. I had them come by to take pictures.

21 Q. Could you remember who that was?

22 A. I couldn't tell you.

23 Q. But you're the one who actually swabbed
24 Ms. Brown's mouth?

25 A. Right, yeah.

1 report, it is blurry, but I'm not sure.

2 Q. Did you give a statement at another time
3 that Ms. Brown said she lit Audreanna on fire?

4 A. Yes.

5 Q. Now, after this particular conversation
6 that you just described for the jurors, did you see
7 Ms. Brown again at another time?

8 A. Yes.

9 Q. And how many days was it after this
10 conversation, just your best recollection?

11 A. A few days.

12 Q. And when you actually saw Ms. Brown a few
13 days later, did she ask you to do something for her?

14 A. Yes, she did.

15 Q. What did she ask you to do, Ms. Valley?

16 A. She asked me to go finish off Andrea.

17 Q. Did she tell you where Ms. Zimmerman was?

18 A. Yes.

19 Q. Where was she?

20 A. In the hospital.

21 Q. Did you agree to finish Ms. Zimmerman off?

22 A. No.

23 Q. When you had this conversation about --
24 well, when Ms. Brown asked you to finish her off,
25 did she ask you to do anything else for her?

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA
STATE OF FLORIDA,

vs.

CASE NO: 2010 CF 001608

TINA LASONYA BROWN,

Defendant

_____/ VOLUME IV

Proceedings held in the above-styled cause before the
Honorable Gary Bergosh, Circuit Judge, on the 18th, 19th,
20th, 21st, 25th and 26th days of June, 2012, at the M.C.
Blanchard Judicial Building, 190 Governmental Center,
Pensacola, Florida 32502.

APPEARANCES:

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BRIGI DE MAGANA
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL

1 sentence at the Escambia County jail?

2 A. Yes.

3 Q. For what?

4 A. For grand theft auto of my own vehicle.

5 Q. And is that the only felony that you have?

6 A. Yes, it is.

7 Q. Ms. Doyle, do you remember when you
8 started your sentence?

9 A. July 14th.

10 Q. Of?

11 A. 2011.

12 Q. And do you recall when you were released?

13 A. April 2nd 2012.

14 Q. While you were at the Escambia County
15 Jail, at some point were you housed with Tina Brown?

16 A. Yes.

17 Q. Did you know Tina Brown before you were
18 housed with her?

19 A. No.

20 Q. Did everyone wear, I guess, photo ID's?

21 A. Yes, they did.

22 Q. Is that how you were able to determine her
23 name?

24 A. Yes.

25 Q. What color jumpsuit did you wear at the

1 time?

2 A. I wore a dark green jumpsuit.

3 Q. And did Ms. Brown wear the same color?

4 A. No, she wore lime green.

5 Q. Was that curious to you?

6 A. Yes.

7 Q. Did you ask her about it?

8 A. Yes, I did.

9 Q. And how did she respond?

10 A. She said that she didn't want to discuss
11 it.

12 Q. Did you press the issue at that point?

13 A. No, I did not.

14 Q. Did there come a time when she did talk to
15 you about why she was in a different jumpsuit?

16 A. Yes.

17 Q. When was that?

18 A. It was after breakfast. I was --

19 Q. Let me stop you real quick. I'm sorry.

20 It was an ambiguous question. When did she talk to
21 you in relation to the first time that you asked her
22 about it?

23 A. It had been a few days.

24 Q. What happened a few days later?

25 A. I gotten up for breakfast which is at four

1 o'clock in the morning and I stayed up reading my
2 book and having coffee and she came and asked me if
3 I had a cup of coffee and I did. And she sat down
4 with me and asked me what book I was reading and I
5 told her and then we continued the conversation.

6 Q. Was anyone else sitting with you and Ms.
7 Brown at the time?

8 A. No, they weren't.

9 Q. After, I guess, you talked about the book
10 you were reading, how did the conversation progress?

11 A. She told me, she said you asked me the
12 other day why I was wearing this color jumpsuit and
13 she said because her, her daughter and another woman
14 had killed a girl.

15 Q. Did she tell you why they killed the other
16 girl?

17 A. That her daughter and another, and I'm
18 assuming the girl, the victim, had gotten in a fight
19 over a boy and the girl pulled a taser on Tina's
20 daughter and when her daughter went and told her
21 about it, she replied with, Don't worry, I'll take
22 care of it.

23 Q. Did she tell you how she took care of it?

24 A. She said that her and her daughter went
25 and picked up another lady by the name of Heather

1 Lee and didn't tell Heather what was going on and --
2 I'm sorry, I'm nervous.

3 Q. That's okay. Take your time.

4 A. She said that they picked up the victim
5 and beat her up and tazed her and set her on fire.

6 Q. Did she tell you who they were?

7 A. Her and her daughter. She said that
8 Heather Lee -- she said that the other girl was
9 there but she didn't have anything to do with it.

10 Q. Who is the other girl?

11 A. Heather Lee.

12 Q. Now, at this time that she was telling you
13 this, did you know who Heather Lee was?

14 A. No, I have never laid eyes on her.

15 Q. Now, at some point were you transferred
16 from that area of the jail?

17 A. Yes, I was.

18 Q. And did you end up housed with Heather
19 Lee?

20 A. Yes, I did.

21 Q. And do you recall approximately that time
22 frame?

23 A. The end of October beginning of November
24 of last year.

25 Q. 2011?

1 The State submits to you that the evidence in
2 this case proves beyond a reasonable doubt that Tina
3 Brown is the one who actually killed Audreanna. The
4 State submits to you that Tina Brown is the one who
5 actually poured the gas on Audreanna's body and lit her
6 on fire. But Brittany Miller and Heather Lee are just
7 as legally responsible.

8 Now, not suggesting you should, because the
9 State's position is that would be contrary to the
10 evidence in this case, but if one of you believed that
11 Heather Lee was the one who actually poured the
12 gasoline and lit the fire or Brittany Miller was the
13 one who poured the gasoline or lit the fire, Tina Brown
14 is still guilty of first degree murder as a principal.
15 And, again, the State is not suggesting to you that it
16 was Brittany Miller or Heather Lee because the evidence
17 shows it was Tina Brown who actually killed Audreanna.

18 The underlying felony for felony murder in
19 this case is kidnapping. If you recall during jury
20 selection, I used the arson example. I told you that
21 there was a list of felonies in the State of Florida,
22 that if people engage in them and during the course of
23 engaging in that felony someone dies, that is first
24 degree felony murder. And I used the arson example.
25 The underlying felony in this case is kidnapping. Most

1 mouth. It's incomprehensible. But Heather Lee didn't
2 kick Audreanna in the trailer and she didn't punch
3 Audreanna in the trailer and she didn't beat her and
4 she didn't stun her, and she still has the potential to
5 be sentenced to life in prison.

6 What did Heather Lee do? She stood there.
7 You heard from Mallory. Her and Mallory stood there.
8 And the State is not suggesting to you that standing
9 there doing absolutely nothing to help this girl is not
10 revolting. Because it is. But what the State is
11 suggesting to you is that Tina Brown was the aggressor.
12 It wasn't Heather Lee. It was Tina Brown. Tina came
13 up behind Audreanna. Tina shocked her over and over
14 and over yelling at her something about calling the
15 police or calling Crime Stoppers. And as Audreanna
16 layed there shaking on the ground, who was giving
17 commands? She was. Brittany, go get me something to
18 tie her up with. Brittany, go bring the car around the
19 back. Audreanna, stop screaming or I'm going to tase
20 you some more. Mallory, you stay here. Who's in
21 control? Who's the initiator? Who's the aggressor?
22 Tina Brown. She was on a mission, ladies and
23 gentlemen, and it started in that trailer. And do you
24 think for one second her mission stopped once they got
25 out to the wooded area? Do you think for one second

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA
STATE OF FLORIDA,

vs.

CASE NO: 2010 CF 001608

TINA LASONYA BROWN,

Defendant

_____/ VOLUME VI

Proceedings held in the above-styled cause before the
Honorable Gary Bergosh, Circuit Judge, on the 18th, 19th,
20th, 21st, 25th and 26th days of June, 2012, at the M.C.
Blanchard Judicial Building, 190 Governmental Center,
Pensacola, Florida 32502.

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SHARLENE MAOAH
CLERK OF CIRCUIT COURT
IN ESCAMBIA COUNTY, FL

1 woods against her will with the intent that harm be
2 inflicted upon her or that she be terrorized. Her
3 murder was committed while Tina Brown was engaged in
4 the commission of a kidnapping. That aggravator,
5 ladies and gentlemen, has been proven beyond a
6 reasonable doubt. The second aggravating circumstance,
7 the state submits to you, has been proven beyond a
8 reasonable doubt is that this murder was committed in a
9 cold, calculated and premeditated manner. The Judge
10 will tell you that cold means the product of calm and
11 cool reflection. Calculated means having a careful
12 plan or prearranged design to commit murder and there
13 must be a heightened level of premeditation with this
14 particular aggravator.

15 As awful as it is to think about, you have to
16 look at how it started, how it began, and then how it
17 ended. Because what you heard is that Tina Brown made
18 up with Andreanna Zimmerman that day. She essentially
19 tricked her into coming over to her house. She had to
20 get her over there. You heard that Tina Brown was
21 making sure that she knew how to use that stun gun
22 before Andreanna ever stepped foot in her house. You
23 heard that Tina Brown came up from behind Andreanna,
24 who was defenseless at that time, had her back to Tina
25 Brown. Tina Brown came up from behind her and shocked

1 consideration when you look at this aggravator. How
2 can Tina Brown get her over to her house so that they
3 can attack her? You heard the testimony. There had
4 been problems before between these girls. Mallory
5 Azriel told you she used to go over there all the time
6 to Tina Brown's house and not once, not ever, did she
7 see Andreanna Zimmerman over there until this day. So
8 the only way for Tina Brown to get her to come over
9 there was to lure her to that house, to trick her, to
10 reassure her that things were okay. They were all
11 friends again. She could trust them. And then what is
12 going on just before Andreanna Zimmerman steps foot in
13 that house? What is going on just before she steps
14 into that lair? We're fixing to kill Andreanna. As
15 they sit around getting ready to smoke dope:

16 It was calm, it was cool, there was
17 reflection. The heightened level of premeditation is
18 there because if you look at the steps that it took,
19 the planning that it took to get her over there and
20 then the steps that it took to fulfill their ultimate
21 goal of killing her, that is a heightened level of
22 premeditation.

23 It was lengthy, it was methodic and it
24 involved a series of actions that were designed for one
25 purpose and that was to kill Andreanna Zimmerman.

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

CASE NO: 2010 CF 001608 A

TINA LASONYA BROWN,

Defendant

_____ /

Proceedings held in the above-styled cause before the Honorable Gary Bergosh, Circuit Judge, on the 14th, 15th, 16th, 17th, and 18th days of May 2018 and the 29th day of January 2019, at the M.C. Blanchard Judicial Building, 190 Governmental Center, Pensacola, Florida 32502.

MARYKAY KLINE, RPR, CRR
ANGELA E. KRAUSE, RPR
SHARON K. MCMURRAIN, RPR, RMR
MARIA ANNA BOWERS, RPR, RMR
CIRCUIT COURT REPORTERS

EXHIBIT G

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15 ALSO PRESENT:

16 STAFF ATTORNEY: MELISSA ONACKI, ESQUIRE
17 190 Governmental Center
18 Pensacola, Florida 32502

19 TONYA THIBODEAUX
20 Escambia County Clerk of Court
21 Appeals Division
22 190 Governmental Center
23 Pensacola, Florida 32502

24
25

1 sentence at Lowell Correctional?

2 A. Yes, ma'am.

3 Q. Okay. Do you have any prior convictions for
4 felonies or crimes of dishonesty?

5 A. Yes.

6 Q. How many?

7 A. Three.

8 Q. Okay. Just before you were at Lowell, were
9 you incarcerated down in Homestead?

10 A. Yes, ma'am.

11 Q. And did you know another inmate by the name of
12 Heather Lee?

13 A. Yes.

14 Q. Did you know her by any other name?

15 A. Cocoa.

16 Q. Okay. What type of relationship did you have
17 with Heather Lee?

18 A. She was a girl I was involved with.

19 Q. Okay. So you had a relationship with her?

20 A. Yeah.

21 Q. Okay. At some point during your relationship
22 with Heather, did she tell you about why she was in prison?

23 A. Yeah, she's made comments to me before why she
24 was in prison.

25 Q. What did she say?

1 A. Basically, like, she orchestrated a --
2 taking -- taking care of her boyfriend's mistress, and she
3 was kind of the ringleader.

4 Q. And why did she say -- what was the reason for
5 it?

6 A. Because we was in a intimate relationship --

7 Q. I'm sorry. What was the reason for her --

8 A. Telling me about this?

9 Q. No, what was the reason for her killing her
10 husband's mistress? Did she say why she committed the
11 crime?

12 A. No. She's just -- no. Not directly.

13 Q. Okay. Was it related to the relationship that
14 her husband was having with his mistress?

15 A. Yeah. Yeah.

16 Q. Okay. Did she give you any type of warning
17 when you first got into a relationship with her?

18 A. Yeah, she did.

19 Q. What did she say?

20 A. She basically told me don't -- don't mess over
21 her or try over nobody else. She had no problem -- like, in
22 our slang, we'll be, like, fighting them or, like, getting
23 her point across in any mean -- any means necessary, whether
24 it be aggressively with violence, or -- it didn't matter.

25 Q. Did she ever say that, don't ever cheat on

1 you -- or don't ever cheat on her and if you did she would
2 do to you what she did to her baby daddy's mistress?

3 A. Yeah, she did say that.

4 Q. Did you -- did you end up cheating on her
5 during your relationship with her?

6 A. Yeah.

7 Q. And what happened?

8 A. She beat the girl up. And if the officer
9 wouldn't have come in it probably would have been worse, but
10 she jumped on the girl.

11 Q. Okay. And how did that -- how did that come
12 about?

13 A. What?

14 Q. The fight with the other girl. Do you
15 remember how that happened?

16 A. I was involved with -- I was involved with --
17 with Lee, and I started being involved with somebody else.

18 Q. I'm talking -- I'm sorry. I'm talking about
19 the actual fight. Did it happen in a common room, did it
20 happen in a separate area, where did this --

21 A. It happened right in front of my face. I
22 didn't even know what was going on. It was in the room.

23 Q. How did they get in a room together?

24 A. She ran up on the girl while she wasn't even
25 paying attention. I was in the den room eating, and she had

1 A. Excuse me?

2 Q. What -- what did the journal say about what
3 happened when -- or Heather's thoughts as to what happened
4 when Ms. Zimmerman was being set on fire?

5 A. I mean, it was a while ago when I read the
6 journal, but --

7 Q. Did she --

8 A. Only thing, like, basically, she got what she
9 deserved because of what she did or whatever. The
10 involvement the girl had with her -- her baby daddy, she got
11 what she deserved.

12 Q. Do you recall telling Mr. Kirby Jordan that
13 she -- she wished she had let the bitch scream more and feel
14 her pain? Do you remember reading that in the journal? Do
15 you remember telling him that?

16 A. I mean, the journal was really graphic, but I
17 don't remember --

18 Q. Do you remember telling Mr. Kirby that?

19 A. I mean, the journal was very graphic. It was
20 very detailed, but I don't remember. It was, like, a couple
21 years ago.

22 Q. If I showed you your statement, your recorded
23 statement, would that refresh your recollection?

24 A. No.

25 Q. You don't think reading what you said --

1 A. No, the journal was very graphic. It talked
2 about the entire case.

3 Q. Okay.

4 A. It wasn't something --

5 Q. So --

6 A. -- that happened in my life so it's not
7 something that's going to be factual to me. Yeah, it was
8 very detailed.

9 Q. What details do you remember?

10 A. It talked about the girl being set on fire.
11 And it talked about, like, events that happened that night.

12 Q. Did she say -- what did she say in relation to
13 how she got Tina to help her or how she threatened Tina?
14 What did it say about that?

15 A. I guess she was bribing her, I guess, with
16 drugs, and she just kept referring to it in the journal as
17 these -- like, referring to them -- the two people -- the
18 other two people that was involved was these bitches and
19 they act like they were scared and they didn't want to do
20 nothing. She had to, like, force them.

21 Q. Okay.

22 A. Just to do simple things. And she never,
23 like, really never stated them, like, by name. She always
24 said "these bitches." I didn't know who these bitches was
25 until --

1 Q. Until later on?

2 A. -- I figured out later on who she was in
3 prison with.

4 Q. Okay.

5 MS. MACREADY: One moment, Your Honor.

6 Q. (By Ms. Macready) Did Heather used to threaten to
7 set people on fire?

8 A. It's something that she's said before, yeah.
9 But it was -- yeah, it was something that she said before.

10 Q. Do you remember telling Kirby Jordan that you
11 know some people would say, "I'll cut you up," or, "I'll
12 beat your ass," and she would say, "I'll set your ass on
13 fire"? Did she say that?

14 A. Yes.

15 Q. That was her thing?

16 A. Yes.

17 Q. Okay. Ms. Jabali, since you've been
18 transferred to Escambia County Jail for this hearing, has
19 anyone given you any messages from Heather?

20 A. No.

21 Q. Do you -- were you passed messages from anyone
22 regarding this case?

23 A. I've been passed messages by a lot of people
24 that find out why I'm here, but not just anyone in -- in --
25 directly. But anybody can pass a message. I never talked

1 the prison setting?

2 A. Yeah.

3 Q. Okay. And you mentioned that Heather would
4 make these statements or threats when she was trying to get
5 her point across?

6 A. Yeah.

7 Q. Okay. So would it be fair to say she was kind
8 of bragging or trying to be tough when she would say these
9 things?

10 A. Yeah.

11 Q. Okay.

12 A. I could say that.

13 Q. And this journal that you were talking about,
14 where is this journal?

15 A. Honestly, I don't know. It was in my -- I --
16 Heather went to confinement, and she gave me stuff to hold
17 for -- her to hold while she was in confinement because
18 certain things in prison we don't want officers to see, go
19 through.

20 She gave me the journal. I ended up going to
21 jail before she got out, and the midst of me being in
22 confinement, it was taken out of my property along with
23 several other things. After that, I didn't care to find it.
24 I told her they took the journal, it is what it is.

25 Q. Did you and Heather, I guess, have a

M A S T E R I N D E X

	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
1					
2					
3	JOHN GONTAREK	14	48	65	
4	HEATHER LEE	71	79		
5	DARREN LEE	85	92		
6	JESSICA SWINDLE	96	98		
7	NICOLE HENDERSON	101	106		
8	TAJIRI JABALI	109	118		
9	SHAYLA EDMONSON	121	124		
10	FAYE SULTAN	131	220	248	
11	SHARON WILSON	258	276	294	
12	DREW EDWARDS	308	333	343	
13	MICHAEL HERKOV	347	379		
14	JOHN GONTAREK	388			
15	TERRANCE WOODS	402	409	430	
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

CASE NO: 2010 CF 001608

TINA LASONYA BROWN,

Defendant

_____ /

Proceedings held in the above-styled cause before the Honorable Gary Bergosh, Circuit Judge, on the 22nd day of August, 2012, at the M.C. Blanchard Judicial Building, 190 Governmental Center, Pensacola, Florida 32502.

APPEARANCES:

FOR THE STATE:

BRIDGETTE M. JENSEN, ESQUIRE
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FOR THE DEFENDANT:

JOHN J. GONTAREK, ESQUIRE
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SHARON K. WILSON, ESQUIRE
Court Appointed Attorney
103 West Indendencia Street
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MARIA ANNA BOWERS, RPR, RMR
CIRCUIT COURT REPORTER

EXHIBIT H

APPEALS DIVISION
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FRANKIE HAGAH
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL

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1 used. I'll place it in the court record as
2 Spencer -- Defense Spencer Exhibit 2.

3 Okay. Mr. Gontarek.

4 MR. GONTAREK: Ms. Brown, you want to
5 address the Court?

6 THE DEFENDANT: Yes.

7 MR. GONTAREK: Go ahead

8 THE COURT: Okay. Mr. Brown.

9 THE DEFENDANT: Well, I really want to
10 speak to the family.

11 THE COURT: Yes, ma'am.

12 THE DEFENDANT: I'm not going to be able
13 to do it.

14 THE COURT: Do you want to -- is it easier
15 if you sit at counsel table?

16 Why don't I let you have a seat. I know
17 this may be difficult. Let's just make sure we
18 bring the microphone for her so I can hear, and
19 she can take a moment to compose herself.

20 THE DEFENDANT: I really want to speak to
21 Audrianna's family, but they are not here
22 today. And I want to tell them that her
23 daughter died a horrific death, and I was one
24 of the ones who participated in taking her
25 life. She didn't deserve it at all. I think

1 back on the good times that we had where we'd
2 be laughing and dancing or doing little crazy
3 stuff, and I remember back, I look at those --
4 those autopsy pictures, and they haunt me
5 today. And I'm sorry that they wasn't able to
6 have an open casket wake. Her family couldn't
7 see her laying down peacefully. No more
8 troubles. They don't see that. They couldn't.
9 They weren't there. I'm just sorry. I am so
10 sorry that I helped in this. I'm so sorry.

11 And that's all.

12 THE COURT: Okay. All right. And I
13 appreciate you telling me that.

14 Is there anything else that the Defense
15 has to offer in the Spencer hearing?

16 MR. GONTAREK: No, Judge.

17 MS. WILSON: No, your Honor.

18 THE COURT: All right. If I may, can I
19 see Counsel at the bench just for a scheduling
20 issue.

21 COURT REPORTER: Would you like it on the
22 record, your Honor?

23 THE COURT: This is going to be off the
24 record. It's just for scheduling.

25 (Bench conference off the record)

IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

Case No.: 2010-CF-1608A
Division: "N"

TINA LASONYA BROWN,

Defendant.

ORDER DENYING DEFENDANT'S THIRD AMENDED MOTION TO VACATE
JUDGMENTS OF CONVICTION AND SENTENCE

THIS CAUSE comes before the Court upon Defendant's "Third Amended Motion to Vacate Judgments of Conviction and Sentence with Special Request for Leave to Amend," filed March 1, 2017. After due consideration of the instant motion, the State's answer to the motion, evidence adduced at evidentiary hearing, written arguments submitted by Defendant and the State, the record, and relevant legal authority, the Court finds that Defendant is not entitled to relief.

PROCEDURAL HISTORY

Defendant filed her original postconviction motion on November 24, 2010. On December 16, 2015, this motion was stricken with leave to amend for failure to comply with the numbering requirements delineated in rule 3.851(e), Florida Rules of Criminal Procedure. On January 13, 2016, Defendant filed her first amended postconviction motion. On February 29, 2016, because Defendant's amended motion still did not comply with the numbering requirements of rule 3.851(e), the amended motion was stricken with leave to amend. On

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CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL
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decision not to expand the investigation of potential mitigation was reasonable under the circumstances.” Guardado, 176 So. 3d at 895 (citation omitted). The evidence presented at evidentiary hearing shows that penalty phase counsel was not deficient in failing to hire additional experts to offer mitigation testimony. Attorney Wilson took reasonable steps to use mental health experts and develop mental health mitigation by hiring Dr. Bailey and Dr. McDermott. Additionally, the evidence shows that Ms. Wilson reasonably relied on Dr. Bailey to recommend any additional experts that might have helped in Defendant’s case, and Dr. Bailey never did. As in the Guardado case, penalty phase counsel had “no reason to doubt” Dr. Bailey’s report or question Dr. Bailey’s lack of suggestion to hire additional mental health experts. Guardado, 176 So. 3d at 896. In the circumstances of this case, Dr. Bailey, who was hired to provide mental health expertise and assess Defendant, failed to notify penalty phase counsel that other mental health experts might be helpful in developing mitigation in this case. Penalty phase counsel had a reasonable expectation that Dr. Bailey would share such information with her. Penalty phase counsel is not deficient for relying on Dr. Bailey’s expertise and failing to hire additional mental health experts, when no such suggestion was provided to her by the professionals hired to do such an assessment.

Additionally, this Court finds that Defendant was not prejudiced by trial counsel’s failure to consult with or present additional testimony from mental health experts during the penalty phase of trial. The expert testimony Defendant presented at evidentiary hearing was largely cumulative of the evidence presented through lay witnesses and Dr. Bailey at trial. Each of the three experts Defendant called at the evidentiary hearing – Dr. Faye Sultan, Dr. Drew Edwards, and Dr. Michael Herkov – presented opinions that largely reflected Dr. Bailey’s testimony at

trial, albeit with some additional detail. To the extent the postconviction experts' opinions differed from Dr. Bailey's, "[s]imply presenting the testimony of experts during the [postconviction] evidentiary hearing that are inconsistent with the mental health opinion of an expert retained by trial counsel does not rise to the level of prejudice necessary to warrant relief." Dufour v. State, 905 So. 2d 42, 58 (Fla. 2005). Further, as detailed throughout this order, the evidence in this case was overwhelming and supported the three weighty aggravators in this case: heinous, atrocious, and cruel (HAC), CCP, and felony murder (kidnapping). These aggravators would not have been outweighed by the cumulative mitigation evidence Defendant presented at evidentiary hearing. Defendant has failed to show that the additional experts' testimony, which was largely repetitive of that presented at trial, would have made a difference in the jury's verdict. Defendant is not entitled to relief as to this claim.

Claim 3C: Counsel Failed to Present Evidence Supporting Statutory Mitigation

Defendant next alleges that counsel failed to present sufficient evidence to support the following statutory mitigators during the penalty phase: 1) the crime was committed while Defendant was under the influence of extreme mental or emotional disturbance; 2) Defendant was an accomplice in the capital felony committed by another person and her participation was relatively minor; 3) Defendant acted under extreme duress or other substantial domination of another person; and 4) the capacity of Defendant to appreciate the criminality of her conduct or to conform her conduct to the requirements of law was substantially impaired. Defendant claims that had penalty phase counsel hired the appropriate experts and called lay witnesses, their testimony would have supported these mental health statutory mitigators. Specifically, Defendant alleges that Dr. Sultan's testimony would have established evidence to support