State of Connecticut
DIVISION OF CRIMINAL JUSTICE
OFFICE OF THE CHIEF STATE'S ATTORNEY
CONVICTION INTEGRITY UNIT

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Date: July 25, 2023

Case: State v. Derrick Taylor, CR94-0459816

CIU #: 2022-0407-DT Taylor, Derrick

Re: Preliminary Staff Synopsis and Findings

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Conviction Integrity Review Members:

Supervisory Assistant State's Attorney Joseph Valdes

Supervisory Inspector Adrian Acosta

Inspector John Betz

Inspector James Naccarato

Paralegal Specialist Elizabeth Dolbeare

CIU SYNOPSIS AND FINDINGS

I. Expedited Submission and CIU Protocol.

The Conviction Integrity Unit is submitting a preliminary case synopsis in the case of State v. Derrick Taylor, CR940459816, CIU #2022-0407-DT Taylor, Derrick, for consideration to the State's Attorney of the Hartford Judicial District for expedited consideration.

CIU Procedures in general.

The CIU performs initial screening of all applications to confirm if the Basic Qualifications for further review are met. If the Basic Qualifications are met, the CIU informs the Deputy Chief State's Attorney. The accepted claim is then subject to a thorough investigation and is prepared for a possible presentation to the Conviction Review Panel (Panel).

If the Basic Qualifications are met and after careful consideration of the claim, the CIU contends that the claim may identify plausible and verifiable evidence that, if true, would reasonably support a claim of (1) actual innocence or (2) cause a reasonable person to lose confidence in the conviction then CIU will make a recommendation to the Chief State's Attorney, based on priority and resources, to refer the claim to the Conviction Review Panel.

The Panel shall be empowered to recommend or support all available and appropriate remedies, including recommending dismissal or expungement of the case, supporting a sentence modification request, a commutation request or any other legal remedy.

The State's Attorney for the original jurisdiction will be presented with the Panel's findings and recommendation, including any minority opinion. After consultation with the Chief State's Attorney, the State's Attorney for the originating jurisdiction will decide on the appropriate action required to do justice in the matter.

CIU declines the vast majority of Ineffective Assistance and Brady/Giglio because a Habeas trial is the better venue to resolve most of these claims.

Ordinarily CIU is not the best forum to resolve Ineffective Assistance of Counsel claims or Brady/Giglio claims because those types of claims require the testimony of attorneys subject to cross examination, expert testimony on effectiveness of defense counsel, and credibility determinations as to the respective testimony.

However in the matter of CIU #2022-0407-DT State v Derrick Taylor, there is no real factual dispute or interpretation of the evidence required. The factual history is clearly contained in the record, transcripts and in a single page letter. The attorneys involved have limited recollections that are consistent with the record. It is in the interest of Mr. Taylor and the State of Connecticut that the State's Attorney of the Hartford Judicial District give this matter expedited consideration.

Expedited Review by the State's Attorney for the original jurisdiction

Per the CIU Protocol "The State's Attorney for the original jurisdiction ….after consultation with the Chief State's Attorney, will decide on the appropriate action required to do justice in the matter." The CIU Unit, by submitting this matter to the State's Attorney of the Hartford Judicial District for expedited consideration, is facilitating such review in an expedited manner. In this case there is no factual dispute of a Giglio violation caused by failure (good faith is not an exception) to disclosure relevant impeachment material and considering the totality of the circumstances the matter can be expeditiously considered for the "appropriate action required to do justice in the matter"

CIU Protocol.

The most relevant sections of the Conviction Integrity Review Protocol are cited below:

CONVICTION INTEGRITY REVIEW PROTOCOL

The adoption of this protocol does not foreclose or preclude any other action a state's attorney may take concerning a conviction in which information is developed that has led that state's attorney to lose confidence in that conviction.

Initial Screen

The Conviction Integrity Unit (CIU) shall (1) Receive requests for review; (2) Confirm that the basic qualifications are met (See "Basic Qualifications" below); (3) If basic qualifications are met, make a recommendation to the CSA, based on priority and resources, to open an investigation; (4) Make this decision as expeditiously as possible given the complexity of the request and available resources. If those criteria prevent opening a case at this time, the CIU will indicate that to the claimant/requestor. If the criteria are not met, the CIU will respond to initial claimant/requestor. Additional information may also be requested from the claimant / requestor.

Basic Qualifications:

1. Claimant/Requestor can be a convicted person, attorney for a convicted person, representative of a convicted person, the Chief State's Attorney, a State's Attorney, the Civil Litigation Bureau, the Appellate Bureau, the Superior, Appellate or Supreme Court.

2. The convicted person must have been convicted in state court in Connecticut by trial or by guilty plea.

3. The convicted person need not be currently incarcerated or serving a sentence imposed in connection with the conviction. However, the CIU will prioritize the claims of convicted persons who are currently incarcerated or serving a sentence imposed in connection with the conviction.

4. The claim must identify plausible and verifiable evidence that, if true, would reasonably support a claim of (1) actual innocence or (2) cause a reasonable person to lose confidence in the conviction due to issues of official misconduct, discredited forensic or eye witness evidence, the misapplication of forensic science, or due process violations…

Conviction Integrity Unit Review

The CIU shall receive each case accepted for investigation and prepare it for review by the Conviction Review Panel (CRP or Panel). The CIU will retrieve the disposed file, transcripts and copies of any relevant materials held by other agencies. The CIU will also attempt to make any victim of the underlying offense or their representative aware of the review. The CIU will review this material to uncover any potential issues and then provide the CSA and the Panel with a synopsis of the matter and an opinion on any of the issues presented. At the conclusion of the review, the synopsis and opinion will also be shared with Petitioner/Petitioner's Counsel. The review will be concluded as expeditiously as possible given the complexity of the request and available resources.

Action by the Conviction Review Panel

The Panel will review all material provided by the Conviction Integrity Unit. The Panel may ask for further review or investigation. At the conclusion of the review, the Panel will report its findings and any recommendation for further action to the Chief State's Attorney and the State's Attorney for Judicial District in which the conviction occurred. The Panel will issue its conclusion and findings as expeditiously as possible given the complexity of the request and available resources. These findings, and the individual vote of each Panel member, will be made known to the claimant / requestor and their attorney, to any victim of the underlying crime and will be publicly available on the Division's website.

The Panel shall be empowered to recommend or support all available and appropriate remedies, including recommending dismissal or expungement of the case, supporting a petition for the restoration of rights, moving for a reduction of sentence, or supporting a request for clemency, parole, or pardon when appropriate.
The State's Attorney for the original jurisdiction will be presented with the Panel's findings and recommendation, including any minority opinion. After consultation with the Chief State's Attorney, the State's Attorney for the originating jurisdiction will decide on the appropriate action required to do justice in the matter.

Conviction Integrity Review Protocol.

II. Plausible and Verifiable Evidence (Court Findings).

Factual findings from Direct Appeal, SC 15322 – Direct Appeal – 239 Conn. 481 (1996)

During the evening of August 28, 1992, and the early morning of August 29, 1992, the defendant attended a party with members of the Latin Kings on Seymour Street in Hartford. At about 1 a.m., Felix Baez, another guest at the party, asked the defendant to drive him on the defendant's motorcycle to the Cambrense Cafe, a bar and restaurant located on New Park Avenue in Hartford. Helder Aguiar, the sixteen year old son of the owner, and Fernando Aguiar, the owner's brother, were working at the cafe that night. Sometime before 1:30 a.m. on August 29, 1992, Baez and the defendant arrived at the cafe on the defendant's motorcycle. Almost immediately after they entered the cafe, Baez began arguing with another patron. Fernando, who was tending bar, asked both Baez and the defendant to leave. The defendant complied, but Baez did not. Fernando then grabbed Baez by the shirt collar and pushed him out the door. The defendant watched but did not take part in the struggle between Baez and Fernando, which continued outside the cafe and ended when Baez was thrown to the sidewalk. The defendant pointed his right index finger at Fernando and said “wait a minute.” As he stood up, Baez warned “we'll be back.” Baez tried to mount the defendant's motorcycle, but in so doing, he knocked the motorcycle to the ground and broke a handlebar.

The defendant then drove Baez on his motorcycle to Baez' apartment on Madison Street in Hartford. Olga Sorra, a fifteen year old who was baby-sitting Baez' children at his apartment, joined the defendant on his motorcycle after he had dropped off Baez. Sorra and the defendant returned to the party. When they arrived at the party, the defendant asked someone where the “coronas” 6 were, and the defendant was told that they were in the back room. The defendant entered the room and when he came out, he told Sorra that he was leaving, but that he would be back. Soon thereafter, the defendant left the party.

Sometime after 2 a.m., Helder Aguiar stepped outside of the Cambrense Cafe to help Fernando Aguiar look for keys he had lost during the scuffle with Baez. As he stood outside, Helder noticed two people carrying handguns, whose faces were wrapped with T–shirts covering all but their eyes, moving up the south side of the cafe toward Fernando. As Helder yelled to Fernando to warn him of the approaching danger, one of the assailants put his revolver against Fernando's head and the other assailant fired a semiautomatic pistol at Helder and struck him with two bullets. Helder observed that the person who shot him had the same build as the defendant and wore exactly the same clothing from the waist down that the defendant had worn one hour earlier at the cafe. Before he lost consciousness, Helder saw both armed men firing bullets at Fernando as he lay on the sidewalk. Fitzalbert Williams, a state prisoner on weekend furlough, lived in a third floor apartment at 6 New Park Avenue within view of the cafe. Williams was lying awake in bed sometime after 2 a.m. on August 29, 1992, when he heard two gunshots. Williams went to his window, he opened it, and, as he looked out the window, saw the defendant with a pistol in his hand.

Williams testified that nothing obstructed his view, that the lighting was “pretty bright” and that his eyesight was “very good.” Williams stated that he saw a “half-front view” of the defendant from the nose back to the right side, and that the defendant was not then wearing anything that covered his face. Williams further testified that he saw “sparks,” and then observed the defendant turn in his direction before running away. As the defendant began to run away, Williams saw a second armed person appear and fire gunshots at a person lying on the sidewalk. After firing the shots, the other assailant ran in the same direction as the defendant. The defendant helped the other assailant over a fence, and they both disappeared out of Williams' sight.

At approximately 2:22 a.m. on the morning of August 29, 1992, Hartford police officers Antonio Champion and Carlos Rosario were at the intersection of Park Street and Sisson Avenue when they heard gunshots coming from the direction of New Park Avenue. Both officers responded to the sound of gunfire and ran to the intersection of Park Street and New Park Avenue. Champion saw Fernando Aguiar lying on the ground, having been shot several times in the face and upper part of his body. Both Fernando and Helder Aguiar were taken to Hartford Hospital where Fernando was pronounced dead. The autopsy on Fernando revealed that multiple gunshot wounds to the head and body were the cause of his death. Helder was treated for two gunshot wounds and released. When Sorra saw the defendant return to the Latin Kings party at approximately 2:30 a.m., the defendant was not riding his motorcycle. Rather, he was a passenger in a Ford Bronco driven by another member of the Latin Kings. Subsequently, Sorra and the defendant were driven to his apartment in Manchester, and Sorra spent the remainder of the night with him. Later that morning, a person who had been at the party the night before came to the defendant's apartment and told the defendant that he should leave town. The defendant filled a suitcase with clothes and left the apartment. Sorra left for Puerto Rico, and she did not see the defendant again until she testified at his trial.

State v Taylor, 239 Conn. 481, 485-94, (1996)

The defendant testified at trial that he was with his girlfriend, Michelle Michalski, at the party during the time of the shootings, that he remained at the party with Michalski from 2 a.m. until 4 a.m., and that he left the party at 4 a.m. with Sorra. Although the defendant clearly identified Michalski as an alibi witness, and though Michalski was present throughout his trial, he chose not to call her. The state sought permission to comment on the defendant's failure to call Michalski and requested that the trial court deliver a *Secondino* instruction to the jury. Finding that Michalski both was available to testify and was someone whom the defendant, having implicated her as an alibi witness, would naturally produce, the trial court allowed the state to comment on the defendant's failure to call Michalski as a witness. The trial court further instructed the jury that it could draw an adverse inference from the defendant's failure to call Michalski to corroborate his alibi.

State v. Taylor, supra, 239 Conn. 494-95

On direct appeal Justice Berdon noted that: “the case against the [petitioner] was paper-thin.” (*Berdon*, *J.*, dissenting). State v. Taylor, supra, 239 Conn. 507

III. Case law on Brady & Giglio relevant to State v Taylor.

Overview of the principles of Brady v Maryland and Giglio v United States.

In *Brady v. Maryland*, 373 U.S. 83, 87 (1963), the United States Supreme Court held that "suppression by the prosecution of evidence favorable to an accused . . . violates due process where the evidence is material either to guilt or punishment, irrespective of the good or bad faith of the prosecution." A prosecutor who "withholds evidence . . . which, if made available, would tend to exculpate [the defendant] or reduce the penalty . . . casts the prosecutor in the role of an architect of a proceeding that does not comport with standards of justice. . . ." *Id.* at 87-88; *accord Cone v. Bell*, 556 U.S. 449, 474-75 (2009) (prosecutor's *Brady* obligation applies not only to evidence that negates guilt but also extends to any evidence that mitigates punishment).

The Supreme Court later explained in *Giglio v. United States*, 405 U.S. 150, 154-55 (1972), that, in addition to purely exculpatory evidence, favorable evidence under the *Brady* rule includes *impeachment evidence* – that is, any information that the defense might use to impeach the State's witnesses by showing, for example, bias or interest. Thus, the prosecution must disclose any "evidence affecting [the] credibility" of prosecution witnesses to the defense. *Id*. at 154; *see Adams v. Commissioner of Correction*, 309 Conn. 359, 369-70 (2013) (impeachment evidence, broadly defined, is evidence "having the potential to alter the jury's assessment of the credibility of a significant prosecution witness" (internal quotation marks omitted)). Significantly, pursuant to *Giglio*, the prosecution is responsible for the nondisclosure of impeachment evidence regardless of whether the nondisclosure resulted from negligence or design. *Giglio*, 405 U.S. at 154.

The timing of disclosure must make the impeachment information useful at trial.

Brady information must be disclosed early enough "for its effective use at trial." (Internal quotation marks omitted.) *State v. Pollitt*, 199 Conn. 399, 414 (1986); *see also United States v. Coppa*, 267 F.3d 132, 135 (2d Cir. 2001) (evidence is "suppressed" within the meaning of *Brady* if not disclosed in time for its effective use at trial); see also General Statutes § 54-86c(a); Practice Book §§ 40-11, 40-13 & 40-13A. In regard to potential impeachment material, in practice this means prior to the cooperating witness testifying at any adversarial proceeding (i.e., probable cause hearing, suppression hearing, or violation of probation hearing). *See State v. Mitchell*, 200 Conn. 323, 338 (1986) ("Since the adversarial probable cause hearing … is an essential part of a defendant's criminal prosecution, the constitutional obligation to disclose exculpatory material attaches at that time.").

State has a duty to correct "any misconception" that is "substantially misleading."

Pursuant to *Napue v. Illinois*, 360 U.S. 264, 269 (1959), and *Giglio*, 405 U.S. at 153, when a prosecutor knows that a witness has falsely denied striking a plea deal with the state, or knows that the witness has substantially mischaracterized the nature of an inducement, the prosecutor has an obligation to correct any misconception. *See Gomez v. Commissioner of Correction*, 336 Conn. 168, 185-86 (2020) (prosecutor has duty to correct material, false or misleading testimony regarding cooperation agreement *even if agreement at issue has been disclosed to defense counsel*). It does not matter whether the cooperating witness actually intended to lie. *Napue* and *Giglio* require that the prosecutor apprise the court

whenever the prosecutor knows the witness is giving testimony that is "substantially misleading." *State v. Ouellette*, 295 Conn. 173, 186 (2010).

Giglio applies to undisclosed, implied, or off-the-record plea agreements

"The prerequisite of any claim under the *Brady, Napue* and *Giglio* line of cases is the existence of an undisclosed agreement or understanding between the cooperating witness and the state.[The Court must] first consider whether there was an undisclosed, implied plea agreement between [the witness] and the state."(Internal citation omitted) *Ouellette*, 295 Conn. at 186.

In *State v Marquez*, 330 Conn. 575, 603-608, (2019) the Connecticut Supreme court expressed concern about off-the-record leniency understandings with cooperating witnesses.

> "[The] prosecutor's suggesting—although not promising—that a favorable recommendation to the sentencing judge and/or a reduction in the charges against the witness might be forthcoming in exchange for the witness' testimony inculpating another defendant…. Often such representations are made only to the witness' counsel, while the prosecutor's communication with the witness makes clear that there is no promise…Thereafter, if, before the jury, the witness denies that there is any actual "agreement" or "deal," the prosecutor can accurately state, as the respondent argues in this case, that he does not have a reason to know if the witness is being untruthful (internal citations omitted)." *Marquez,* at 604.

The Connecticut Supreme court declined to invoke its supervisory authority under the circumstances of *State v Marquez* (overwhelming strength of the state's case), "trusting that the above discussion will encourage prudence on the state's part in its dealings with cooperating witnesses." *Marquez,* at 608.

> "To its credit, following our decision in *Marquez*, the Division of Criminal Justice voluntarily adopted a new policy, entitled "515 Cooperating Witnesses," that is intended to ensure the vindication of defendants' rights under *Napue* and *Brady*. Of particular relevance to the present appeal, the policy provides: "The prosecutorial official trying the case shall ensure that any testimony that is given by the cooperating witness concerning the cooperation agreement is true, accurate and not misleading. False, inaccurate or misleading testimony may be corrected with the use of leading questions, as permitted by the trial court."
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> Footnote 10 in *Gomez v Commissioner of Corrections*, 336 Conn. 168, (June 29, 2020).

DCJ Policy 515 on cooperating witnesses.

In order to avoid the potential pitfalls associated with presenting the testimony of cooperating witnesses at trial, all cooperation agreements entered into by DCJ staff shall be in writing and signed by the parties in accordance with DCJ Policy 515 "Cooperating Witnesses." *See Ouellette*, 295 Conn. at 191-92 (expressing concern over discrepancies between cooperating witness's testimony regarding parameters of plea agreement with state and prosecutor's subsequent representations regarding agreement at time of witness's sentencing).

Giglio applies irrespective of the good faith of the prosecutor in failing to disclose all exculpatory information irrespective if requested or not by the defense.

In *Brady,* the court held that "the suppression by the prosecution of evidence favorable to an accused upon request violates due process [when] the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the Prosecutor]. *State v. Cohane,* 193 Conn. 474, 495, (1984)

> The United States Supreme Court further explained and refined the rule set forth in *Brady v. Maryland* in the case of *United States v. Agurs,* 427 U.S. 97, (1976). There the court identified three distinct situations to which the *Brady* rule might apply: (1) those cases in which "the undisclosed evidence demonstrates that the prosecution's case includes perjured testimony and that the prosecution knew, or should have known, of the perjury; (2) those cases, like *Brady* itself, in which the defendant has made a pretrial request for specific evidence; and (3) those cases in which the defendant has made no request for disclosure or has made only a general request for all exculpatory information. Id., 107. *State v Cohane*, 474,496, (1984).

There is no absolute time limit on impeachment based on felony convictions.

Sec. 6-7. Evidence of Conviction of Crime
(a) General rule. For the purpose of impeaching the credibility of a witness, evidence that a witness has been convicted of a crime is admissible if the crime was punishable by imprisonment for more than one year. In determining whether to admit evidence of a conviction, the court shall consider: (1) the extent of the prejudice likely to arise; (2) the significance of the particular crime in indicating untruthfulness; and (3) the remoteness in time of the conviction.
(b) Methods of proof. Evidence that a witness has been convicted of a crime may be introduced by the following methods: (1) examination of the witness as to the conviction;

COMMENTARY
The Supreme Court has established **no absolute time limit** that would bar the admissibility of certain convictions, although it has suggested a ten year limit on admissibility measured from the later of the date of conviction or the date of the witness' release from the confinement imposed for the conviction. See, *State v. Nardini*, 187 Conn. 513, 522, 526 (1982). The court has noted, however, that those ''convictions having . . . special significance upon the issue of veracity [may] surmount the standard bar of ten years . . . .'' *State v. Nardini*, supra, 526;

Evidence that is not disclosed in a timely manner as required by Brady and Giglio must be material.

In *State v. Rosa*, 196 Conn. App. 490 (2019) the defendant could not prove allegedly undisclosed evidence of DNA match to a third party was material. The claim was unpreserved at trial, however pursuant to *Golding*, the court proceed to examine the defendant's unpreserved claim that the state committed a *Brady* violation by failing to disclose the CODIS match.

> The defendant's sole claim on appeal is that the state, through its agent, the division,[5] suppressed evidence favorable to him and material to his guilt or innocence, namely, evidence of the CODIS match indicating that the DNA of another convicted felon was found on a discarded sweatshirt in the vicinity of the scene of the shootings. He alleges that the division acquired this key evidence either at least two months before his trial began or while his trial was proceeding, and did not disclose it until after his trial had concluded. He asserts that evidence belonging to a convicted felon, found near the crime scene, would have bolstered his sole theory of defense—that an unknown individual was the shooter—and discredited the state's key witness, Jiminez….. We agree with the state that the defendant has failed to prove that the newly disclosed evidence of the CODIS match was material and, therefore, affirm the judgment of the trial court. *State v. Rosa*, 196 Conn. App. 490 489-90 (2019)
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> Under the last *Brady* prong, the prejudice that the defendant suffered as a result of the impropriety must have been material to the case, such that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.'' (Citations omitted; internal quotation marks omitted.) *State v. Skakel*, 276 Conn. 633, 699–700, (2006) See, also *State v. Dupigney*, 295 Conn. 50, 73, (2010).

IV. CIU Investigation.

Relevant Time line of *State v Derrick James Taylor*, CR94-859819

August 29, 1992 Murder of Fernando Aguiar

At approximately 2:22 a.m. on August 29, 1992, Fernando Aguiar was fatally shot. Fitzalbert Williams was an eye witness while he was home on furlough from the Department of Corrections.

June 10, 1994, Derrick James Taylor was arrested by warrant

Sept. 14, 21 and Oct. 5, 1994 Hearing in Probable Cause- Fitzalbert Williams testified on Oct. 6, 1994

The morning (09:12am) of October 5, 1994 a NCIC record indicated that Fitzalbert Williams had a prior arrest (07/16/87) and conviction (04/20/88) in H14H-CR88-039832-S for Possession of Narcotics and that he had received a suspended sentence of 2 years execution suspended and 3 years' Probation

The issue of agreements or understandings between the cooperating witness and the state was only discussed during cross examination of Williams at the Probable Cause Hearing. Williams' entire testimony at the Probable Cause Hearing is recorded in Tr. 10/5/94 at 5-47. Williams was called as a witness and questioned by the prosecutor Supervisory Assistant State's Attorney Herbert Carlson during direct testimony (Tr. 10/5/94 at 5-19).

During the cross examination by Public Defender, now Superior Court Judge, Kevin Randolph asked Williams about his "felonies" (Tr. 10/5/94 at 21), and agreements or understandings between the cooperating witness and the state. Williams denied being "promised anything to testify…." (Tr. 10/5/94 at 42.)

Q. And you indicated on direct examination that you were in prison for certain offences, is that accurate?
A. Yes
Q. And those offences were felonies, were they not?
A. Yes they were.

Tr. 10/5/94 at 21.

Q Mr. Williams, have you been promised anything to testify here today?
A Nope.

Tr. 10/5/94 at 42.

After this question and answer the cross examination continued to address evidentiary issues. During re-direct and re-cross there was no further examination of Williams on the subject of agreements or understandings between the cooperating witness and the state; or on his felony convictions. (Tr. 10/5/94 at 44-47). During the direct and cross examination Williams was asked about being on furlough from corrections at the time he witnessed the murder (Tr. 10/5/94 at 5, 6, 19-20, 29, 32-34). The State

called another witness, a Hartford Police Detective Getz who denied during cross examination if he had made any promises to Williams as to furlough (Tr. 10/5/94 at 52). The state rested after this witness.

July 5-11, 1995 Fitzalbert Williams testified at trial on July 6, 1995-

The morning (09:47am) of July 6, 1995 a NCIC record indicated that Fitzalbert Williams had in addition to the 1988 conviction for Possession of Narcotics two new pending cases, a narcotics case in "SPOL Middletown" (actually in West Haven, at G.A. 22) and a nolled misdemeanor in Hartford.

The defense called Det. Getz and Williams during its Motion to suppress the photo array. Det. Getz denied making any promises to Williams (Tr. 10/5/94 at 113,117,129-130). The subject of agreements or understandings between the cooperating witness and the state; or his felony convictions were not discussed during direct testimony (tr. 7/6/1995 at 173-197) nor during cross examination, (Tr. at 197-212); re-direct (Tr. at 212-215); re-cross and re-direct (Tr. at 215).

July 13, 1995 Derrick James Taylor found Guilty by the jury.

The defendant, Taylor, was convicted on July 13, 1995 by a jury of the crimes of murder in violation of General Statutes § 53a–54a (a), assault in the first degree in violation of General Statutes § 53a–59 (a)(1), and conspiracy to commit murder in violation of General Statutes §§ 53a–54a (a) and 53a–48 (a). State v. Taylor, supra, 239 Conn. 483-84; (Tr. 7/13/1995 at 527-528)

July 14, 1995 Letter from trial prosecutor to a prosecutor in another jurisdiction asking that Williams cooperation in testifying be brought to the attention of his sentencing judge.

The day after the verdict, the prosecutor Supervisory Assistant State's Attorney Carlson wrote a letter to a prosecutor in another jurisdiction in the "hope that his cooperation" would be brought to the attention of Williams' sentencing judge "for whatever consideration might be appropriate."

State of Connecticut
DIVISION OF CRIMINAL JUSTICE

OFFICE OF THE STATE'S ATTORNEY
JUDICIAL DISTRICT OF HARTFORD / NEW BRITAIN

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July 14, 1995

L. Mark Hurley, Esq.
Assistant State's Attorney
G.A. #22
14 West River Street
Milford, CT. 06460

Dear Mr. Hurley:

Formalizing what I indicated to you by telephone, Fitzalbert Williams testified for the Prosecution in a Murder and Assault case, State vs. Derrick James Taylor, CR 14 459816. The jury convicted Taylor of Murder, Assault First Degree and Conspiracy to Commit Murder yesterday after two days of deliberations.

Fitzalbert Williams was our only eyewitness who could make an identification and obviously his testimony was extremely important. I don't need to tell you about the fortitude it takes to testify against a gang member, and even more so when the witness himself is incarcerated.

The reason for this letter is in hopes that his cooperation with a constituent Prosecutor's Office can be brought to the attention of the Judge at sentencing for whatever consideration might be appropriate.

I have enclosed two newspaper articles about the trial for your information.

Sincerely,

Herbert E. Carlson Jr.

Herbert E. Carlson, Jr.
Supervisory Assistant State's Attorney

AN EQUAL OPPORTUNITY EMPLOYER

August 24, 1995 Sentencing of Derrick Taylor

On August 24, 1995 Judge Koletsky imposed a total effective sentence of eighty (80) years to serve.

The NCIC information on Williams' criminal record available for disclosure.

Fitzalbert Williams' Pending record of charges at the October 5, 1994 Probable Cause Hearing:

The morning (09:12) of October 5, 1994 a NCIC record indicated that Fitzalbert Williams had a prior arrest (07/16/87) and conviction (04/20/88) in H14H-CR88-039832-S for Possession of Narcotics and that he had received a suspended sentence of 2 years execution suspended and 3 years' Probation. No other record was indicated.

Fitzalbert Williams' Pending record of charges on July 6, 1995, the day he testified at trial:

The morning (09:47) of July 6, 1995 a NCIC record indicated that Fitzalbert Williams had in addition to the 1988 conviction for Possession of Narcotics two new pending cases, a narcotics case in "SPOL Middletown" and a nolled misdemeanor in Hartford.

"SPOL Middletown" [actually West Haven C.S.P. arrest pending in G.A.22] on September 5, 1994 Williams was arrested (A22M-CR94-0019772-S) using an alias of Litvin Gooden for Possession of Narcotics WITS and Possession of Narcotics.

Hartford on January 8, 1995 Williams was arrested (H14H-CR-0467467-S) for Assault 3rd and the case was nolled on January 20, 1995.

On July 6, 1995 the resolution of the narcotics A22M-CR94-0019772-S case were still pending.

The letter to another prosecutor about Williams' cooperation.

Fitzalbert Williams' resolution of charges after the July 14, 1995 letter from trial prosecutor to a prosecutor in another jurisdiction asking that Williams cooperation in testifying be brought to the attention of his sentencing judge:

A22M-CR94-0019772-S, according to a Collect Record Check, was a CSP Troop I arrest in West Haven on 09/05/1994. The case was pending in Milford G.A. 22, when Williams A.K.A. "Litvin Gooden" was re-arrested on 06/27/1995 for 11/09/1994 Failure to Appear 2nd Degree.

Williams was sentenced 07/18/1995 to the 9/5/1994 arrest for Possession of Narcotics and a Failure to Appear 2nd Degree to 3 years execution suspended 3 years' probation.

Fitzalbert Williams, <u>according to a Collect record check requested on June 28, 2023</u> had additional convictions and arrests that were not indicated on his October 6, 1994 and July 6, 1995 NCIC record checks. Williams had two additional felony convictions that did not appear in the 1994 or 1995 records:

02/04/1995 arrest	by CSP Troup H in Enfield, H13W-MV95-0270670-0 for DWI Failed to Appear and re-arrested, Sentenced 04/09/2001 to 2 days on jail, $500 fine
04/10/1990 VOP	Violation of Probation in H14H-CR88-039832-S (conviction 04/20/88) Sentenced 11/12/1990 to 2 years in jail concurrent to other charges
04/02/1990 arrest	by Hartford PD, H14H0CR90-0383079-S for sale of narcotics, <u>Sentenced 11/12/1990</u> to 5 years in jail concurrent to other charges.
09/27/1989 arrest	by Hartford PD, H14H CR89-0373035-S for Pistol w/o Permit, <u>Sentenced 11/12/1990</u> to 1 year in jail concurrent to other charges.

In addition to these 1990 convictions, Williams continued to violate the law resulting in the following impeachable convictions:

a 1996 class D felony, a 1996 larceny class C misdemeanor (bad check), a 2000 class C felony, a class D felony (Forgery 2), class A misdemeanor (Credit card theft).

9/27/2022 – visit of inmate Taylor at Corrigan-Radgowski

On September 27, 2022 Assistant State's Attorney Thai Chhay, Inspector James Naccarato and Inspector Betz went to the Corrigan-Radgowski Correctional Facility in Montville, CT, to interview Inmate Derrick Taylor, inmate #179983, in regard to his contacting the Conviction Integrity Unit.

> Inmate Taylor is making a claim of innocence based upon inconsistent and unreliable eyewitness statements and testimony, primarily from Fitz Albert Williams. Taylor feels that Williams had a significant motivation to testify as he did. Inmate Taylor stated that he "has hated the witness for a long time" and he believes, based upon the case records and testimony, that Williams was impaired by alcohol and or drugs at the time of the incident and that his testimony is untrue, although Taylor "feels that Williams believes what he says." Taylor feels that his conviction "is based on mistaken witness identifications that were helped along." That in audio recorded testimony. Witness Williams stated in response to questioning by the State "Listen, what you want me to say?" Inmate Taylor feels that this statement is indicative of witness Williams not testifying truthfully, but providing the information that the State would want him to provide. Also, Taylor indicated that he believes the record indicated that Witness Williams initially could not identify anyone regarding the incident. That his testimony at the Probable Cause Hearing is different from his initial statement and his trial testimony, and he is "all over the map with his inconsistent statements."

10/11/2022 -Telephone call to Monique Williams

On October 11, 2022, Inspector Betz made a telephone call to 1-203-###-#### in an attempt to speak to and locate Monique Mason Williams, who had been identified as a witness in this case. The telephone call was answered at 114 7 hours and the woman who answered the phone confirmed that she is Monique Williams, that she had resided at 6 New Park Avenue in Hartford, CT in 1992 and that she was previously married to Fitzalbert Williams. She confirmed a date of birth. That her present married last name is Dolphy and her residence is in Waterbury, CT.

> Monique Williams confined her recollection of the night of the incident. I asked her if she had ever given a statement to the police (Hartford) in regard to the incident and she stated that she did not give a formal statement because she did not see the incident, but her husband did see it. I told her that a report indicated that she had looked out the window at the time of the incident, and she stated that she did in fact look out the window, but not until "after it was over", that her husband Fitzalbert Williams was looking out the window during part of the incident when the shooting was happening, but she did not look out at that time and did not see anyone shooting. That when she looked out later she saw people and the police officers at the scene. I asked her if Fitzalbert Williams said anything to her about what he had seen, and she stated that he recognized him (the shooter) because he was in the bar earlier. That Fitzalbert Williams had been downstairs in the bar with another person drinking prior to the shooting, and that he recognized the shooter as a person who had also been in the bar earlier that night. She does not remember Fitzalbert Williams describing the shooter (or shooters) to her. I asked her if she remembered Fitzalbert Williams saying anything about one of the shooters being a female. When asked this, she paused and delayed her response for several seconds, and

then answered no. She seemed surprised by the question, and I did tell her that that I was asking because there was information in the reports that I had read that indicated that one of the shooters may have been a female.

She stated that she had spoken to Fitzalbert Williams recently, that he was living in Jamaica, but that they have contact and discuss matters related to their son. She stated that Fitzalbert Williams told her that investigators had traveled to Jamaica and spoke to him about this case not that long ago. The information about Fitzalbert Williams having been downstairs in the bar drinking prior to the shooting and recognizing the shooter as also having been in the bar before the shooting incident is of interest, because this is information that is not in any police report or record in the case file. I believe that the information is credible as it was related in the context of other information that Monique Williams shared about her memory of the night in question and it was in her response to the question ''Did Fitzalbert say anything to you about what he saw when he was looking out the window?" I followed up with a question of "Do you remember Fitzalbert describing the shooter?" and she stated that she does not remember Fitzalbert Williams saying anything to her in regard to the description of the shooter. The information about Fitzalbert Williams being in the bar drinking along with another person, and his statement to his wife that he recognized the shooter because he was also in the bar before the shooting would be significant. It would have allowed Fitzalbert Williams to have been in proximity to, have had an opportunity to see and possible observe and possibly interact with the person, over some period of time a short whi le before the shooting took place.

This may also account for Fitzalbert Williams identifying Derrick Taylor from the photo array shown by police, as his statement to his wife indicated that the shooter was in the bar with him earlier that night. Since Fitzalbert Williams was a convicted person, still incarcerated but out on a furlough, it is possible that the information about him being in the bar drinking earlier in the evening and seeing the person whom he later identified as the shooter could have been problematic for him to report, because he may have been in violation of the furlough rules by being in the bar drinking alcohol. Further action to determine what the conduct requirements for convicted inmates on furlough were in 1992 regarding being in a liquor establishment and consuming alcohol while on furlough needs to be researched.

Monique Williams was generally very cooperative, and when asked if she would speak to [CIU inspectors] again in the future, if [CIU] had any further questions, she said that she would.

6/30/23 and 7/3/23 interview with Supervisory Assistant State's Attorney Herbert Carlson

On Friday, June 30, 2023 and Monday, July 3, 2023, the trial prosecutor in State v Taylor, Supervisory Assistant State's Attorney Herbert Carlson visited the Civil Litigation Bureau to review his 1994 trial file in preparation of his anticipated testimony in the pending Habeas *Taylor v Commissioner*, TSR-CV17-4008855. Attorney Carlson is subpoenaed to testify on July 27, 2023.

Attorney Carlson was the Part A supervisor in Hartford when I was a new Deputy Assistant at G.A. 14 in Hartford in 1993 to 1995 before I transferred to Stamford G.A. We had a pleasant discussion of our recollections of the Hartford office and he discussed his career. Attorney Carlson was admitted to the

Connecticut Bar in 1969; joined the State's Attorney's Office in 1972; transferred to Hartford JD in the late 1970's; and retired 14 years ago.

On Friday the 30th, Attorney Carlson had very limited independent recollections from the 1995 Taylor trial. However, later in the day on Friday and on Monday he was better able to discuss the Taylor trial after reviewing his trial file.

When I first met with Attorney Carlson in the morning of Friday the 30th, I explained to him the general purpose of CIU and that CIU was interested in his recollection as to three documents. I then showed Attorney Carlson copies of (1) the October 5, 1994 a NCIC, (2) the July 6, 1995 a NCIC record and (3) the July 14, 1995 letter to ASA Hurley in G.A. 22 at Milford discussing Williams' cooperation by testifying at trial. After Attorney Carlson reviewed the documents and the trial file we spoke again later Friday afternoon and on Monday morning

Attorney Carlson confirmed by looking at his notes that Inspector J.F. Looby was the inspector assigned to the Taylor file and that the NCIS print out indicated that Inspector Looby ran the record checks on Williams in the two mornings that Williams testified. (10/5/1994 at 9:12 am and 7/6/1995 at 9:47am). Attorney Carlson could not find any notes in his file as to if and when the NCIS record was given to the defense and he does not have an independent recollection.

After his review of the trial file Attorney Carlson pointed out the following facts:

- On page 21 of the HPC transcript (Tr. 10/5/1994 at 21) the defense attorney asked Williams about his "felonie**s**" as a plural indicating that then Attorney Randolph knew about the felonies.

- Williams was in the custody of the Commissioner of Corrections and on furlough in 1992 which was inconsistent with a 1988 suspended sentence for possession of narcotics as shown in the 1994 NCIC print out. This would have indicated that the 10/5/94 NCIC record was incomplete.

- The July 6, 1995 NCIC record was printed out at 9:47am. Judge Koletsky was strict about attorneys being in the court room at 10:00am and that he was most likely in court when that record was run at 9:47am. Attorney Carlson does not recall when he received the NCIC print out. He does recall that he did not speak to Williams about his new cases before Williams testified that morning.

- The 7/6/1995 NCIC record printed out at 9:47 am, was the first time Attorney Carlson could have known Williams had a pending case in Milford. The idea to call ASA Hurley in G.A. 22 at Milford and write the July 14, 1995 letter to ASA Hurley discussing Williams' cooperation had to have come to him <u>after</u> Williams' testimony.

- Until it was clear to Attorney Carlson that he would not have to try the case again (mistrial), and the jury arrived at a verdict, he would not have spoken to Mr. Williams about his newly discovered pending cases in Milford.

Attorney Carlson is still available and expects to testify at the Habeas. I told Attorney Carlson that Attorney Macchiarulo would defend the Habeas and that CIUs task was to evaluate claims and if appropriate write a report that ultimately would go to the State's Attorney of the Hartford Judicial district for whatever action she deemed appropriate.

NOTE:

The Transcript of July 6, 1995 indicates that the first matter on the record was a Motion to suppress the photo array by the defense. Det Getz and Mr. Williams were called by the defense to testify (Tr. 7/6/1995 at 11-159). Then the attorneys argued the Motion and the judge ruled (Tr. 7/6/1995 at 159-166. Next witness was Felix Baez called by the state (Tr. 7/6/1995 at 166-173). Next was the direct and cross of Williams (Tr. 7/6/1995 at 173-197)

Conversation with Defense attorney, now Superior Court Judge, Kevin Randolph

The trial defense attorney (now Judge Randolph) was on vacation for two weeks and returned to Stamford/Norwalk JD Monday July 10, 2023. The afternoon of Monday July 10, 2023, I (Joseph Valdes) traveled to the Stamford Norwalk JD to speak with Judge Randolph. The Judge was presiding in arraignment court and was expected by staff that the docket would be concluded by mid-afternoon. Considering that State v Taylor was tried in 1995 I put together a cover letter for the Judge and added to refresh Judge Randolph's recollection:

- Williams' 10/5/1994 (HPC) NCIC record check (one 1988 conviction with probation);
- 7/6/1995 (trial) NCIC record check that added a case pending in GA22;
- Letter Atty Carlson's letter after the verdict about Williams' cooperation;
- 10/5/1994 HPC transcript of Williams' testimony and cross.
- I also told the Judge that the NCIC records did not indicate two 1990 felony convictions.

The judges' secretary, Ms. Jones, told me it was highly unlikely Judge Randolph would speak with any attorney and that he refused to speak with Atty. Mortimer who has subpoenaed the Judge to the Habeas on July 27, 2023. Judge Randolph's reluctance to discuss old cases was confirmed by Atty. Carlson and Atty. Mortimer.

Judge Randolph is familiar with me since our career assignments have overlapped and I was a Senior Assistant State's Attorney in Stamford/Norwalk JD for many years. Judge Randolph did agree to speak with me but he spoke mostly of our professional experiences. The Judge was friendly and talkative but did not want to talk about his recollection of the case. We agreed he would contact me if he had more to add after reviewing the documents. Our last communication was an email from Ms. Jones indicating that the Judge was requesting to testify at the Habeas remotely. I forwarded the email to the Habeas counsel of record.

Interview of witness Fitzalbert Williams via the WhatsApp

On July 18, 2023, at approximately 1133 hours Inspector Betz made a telephone call to Fitzalbert Williams via the WhatsApp telephone function. Williams is believed to be residing in Jamaica. Attorney James Mortimer provided the WhatsApp Number for Williams to CIU.

The call was answered by a person believed to be a male, who when asked, confirmed that he was Fitzalbert Williams. Inspector Betz identified himself as a Police Inspector from the Chief State's Attorney's Office in Connecticut and briefly explained that Inspector Betz was working on the Case of

Derrick Taylor. Inspector Betz asked Williams if he remembered the incident of the shooting and murder and about his past involvement in the matter as a witness and Williams stated that he did remember.

Inspector Betz told Williams that in the present post-conviction litigation of the case Inspector Betz was asked to ask Williams some questions and Williams was cooperative. Inspector Betz asked Williams if there was ever any deal made or discussed with him, between the State of Connecticut and or the Prosecutor (Herbert Carlson) concerning his cooperation in the case.

Williams stated there was no deal ever made or discussed in regard to his cooperation and participation in the case of Derrick Taylor. Williams further stated that at the time of his participation in the case, he was nearing the end of his sentence and that he was being furloughed, and that there was no deal of any kind.

Inspector Betz then asked Williams if he discussed or had made any deal with the State regarding his charges of Possession of Narcotics and Possession with Intent to Sell that he was charged with when he used the name of Litvin Gooden at the time of arrest. Williams acknowledged the arrest and the use of the name Gooden. Williams stated that he did not discuss or have any deal in regard to that case. When asked if he remembered how that case was resolved, Williams stated that he doesn't remember exactly, but he believed the Judge dismissed the charges.

Inspector Betz asked Fitzalbert if he is willing to cooperate with me in any further inquiry that may arise, and he stated that he would cooperate and I could contact him in the future, if necessary.

The call was conducted in the Conviction Integrity Unit work space, it was conducted on the telephone's Speaker Function and was monitored by Supervisory Inspector Adrian Acosta, Inspector James Naccarato and Supervisory Assistant State's Attorney Joseph Valdes, in its entirety.

Attempts to locate Attorney Frank J. Halloran

On July 19, 2023, at approximately 0955 hours Supervisory Inspector Acosta, Inspector Betz accompanied by SASA Valdes attempted to locate Attorney Frank J. Halloran, at a residence at 73 Milehill Road South, Newtown, CT, 06470. There was no answer at the door and no vehicles were parked outside the residence. A business card for Inspector John Betz with a note to call him was left at the front door near the doorknob/lockset. A second attempt was made at 1043 hours at 83 Hattertown Road, Monroe, CT 06468. The current resident confirmed that Halloran had previously resided there, but had not lived there in many years. A third attempt was made at approximately 1120 hours at 387 Center Road, Easton, CT 06612. No answer was received at the residence, but the name on the mailbox and on discarded cardboard shipping boxes had the last name Vitale, and an open source database record indicated that Halloran last resided there in approximately 1993, some 30 years prior. As of this writing Frank J. Halloran has not been contacted.

Interview of L. Mark Hurley, former Assistant State's Attorney at G.A. 22.

On July 19, 2023 a successful attempt was made to locate and speak to former Assistant State's Attorney L. Mark Hurley. Hurley was located at the Law Office of Alexander Schwartz, located at 2425 Post Road, 1st floor, Southport, CT 06890. Hurley consented to speak to Supervisory Assistant State's Attorney Joseph Valdes, Supervisory Inspector Adrian Acosta and Inspector John Betz in the presence of Attorney Schwartz. State's Attorney Valdes and former State's Attorney Hurley engaged in a peer to peer discussion regarding the relevant issues of the case of State v. Derrick Taylor, and Hurley's memory of certain action, interactions and documents.

In summary: Hurley stated that he has no memory of ever speaking to Hartford Supervisory State's Attorney Herbert Carlson about the case. He did review a copy of a letter and had in his possession other documents related to the case that he had obtained from Attorney James Mortimer. When asked if a deal had been made for or in consideration of Fitzalbert Williams, who had also used the name Litvin Gooden, with the State of Connecticut and or the Prosecutors (Herbert Carlson and L. Mark Hurley) Hurley stated the following (in summary). That upon receipt of the letter from Carlson, he would have shared that with the defense counsel. That he and defense counsel would have met, in chambers with the presiding judge, who he believed to have been Judge Comerford. That Judge Comerford read the letter from Carlson and discussed its content and relevance with the State and the Defense and that an appropriate disposition of the case would be suggested and agreed upon by the parties. That he believed, but could not say with certainty, that the Judge having considered the letter and information from the attorneys decided to resolve the matter with a suspended sentence of something like 3 years. That such a resolution did not constitute a deal and no deal had been made for or with Fitzalbert Williams. L. Mark Hurley was cooperative and provided a contact phone number.

During the interview Mr. Hurley had with him a copy of the July 14, 1995 letter from SASA Carlson and a fax containing the police report of the G.A. 22, Williams' 9/5/94 arrest.

The 7/12/1995 Fax was from the Ansonia/Milford JD to Inspector Jim Looby at Hartford JD containing the police report of the Williams' (A.K.A. Litvin Goodin) 9/5/94 arrest that was pending in G.A. 22 under docket number A22M-CR94-0019772-S. This report is confirmed by the Collect Record Check, as the CSP Troop I arrest (Case No. I94-2444565) in West Haven on 09/05/1994. Mr. Hurley stated that he received document in his possession from Attorney Mortimer and gave a copy to CIU staff. Mr. Hurley stated that he knew that he was subpoenaed to testify at the Habeas trial July 27th and that he knew his file had been destroyed.

According to the State Police report Williams (A.K.A. Goodin) was driving a car he had rented from Alamo Rent –A-Car at 70 to 77 MPH and the Trooper executed a motor vehicle stop. The trooper after developing probable cause (smell of marijuana and seeing drug paraphernalia) searched the vehicle and found 5 ounces of narcotics (cocaine) wedged in a crevice in the rear seat. The front passenger seat occupant was Carlton Pruitt and the back seat passenger was Clifton Johnson. All three Williams (A.K.A. Goodin), Pruitt and Johnson where arrested and charges with Possession with Intent to Sell and Possession of Narcotics. All three denied knowledge of the drugs.

Factual Summation- Key facts:

The CIU investigation indicates that the NCIC record checks of Fitzalbert Williams were run in the mornings before he testified at the HPC (10/5/94) and the trial (7/6/95).

The defense attorney inquired about Williams being on furlough and "having felonies" at the HPC and Williams admitted same. Williams also denied any agreements with the state at the HPC.

The 7/6/95 NCIC record check just before Williams testified at the trial is the first time that the trial prosecutor recalls to have known about pending cases in Milford G.A.

The day after (7/14/95) the verdict the trial prosecutor made the fact of William's' trial testimony known to the Milford Prosecutor for Williams' benefit.

The NCIC records printed in 10/5/94 did not contain information of the two 1990 felony convictions; the Enfield 02/04/1995 DWI pending until Sentenced 04/09/2001; nor the Milford 9/5/94 narcotics arrest that was pending in G.A. 22

The NCIC records printed in 7/6/95 did not contain information of the two 1990 felony convictions, or the pending Enfield DWI and FTA2

The case law does not excuse these non-disclosures irrespective of the state's good faith efforts. The question that remains is the materiality of the undisclosed felony convictions and pending cases considering the impeachment of Williams at the HPC and the trial.

Williams still denies any "deal" having been discussed with SASA Carlson and does not recall the reasons for the dispositions of his cases in G.A.22. Williams has been deported to Jamaica and based on his record has significant credibility issues making a new trial, if required, problematic.

Mr. Hurley does not recall any conversations with SASA Carlson nor any knowledge of a "deal" in the G.A. 22 case.

On 9/5/1994 Williams was driving rented car and speeding. The car was stopped and 5 ounces of cocaine was found in the rear seat. Williams, the front seat passenger and the rear seat passenger were all charged and all three denied knowledge of the cocaine. This case was pending at G.A. 22 and not disclosed until 7/6/95 sometime during the day Williams testified.

On 7/18/95 four days after the 7/14/1995 letter to Hurley the narcotics case was resolved according to Hurley after a judicial pretrial. Williams' received a suspended sentence of 3 years execution suspended 3 years' probation.

Victim Contact

The decedent Fernando Aguiar and his nephew Helder Aguiar where both victims of the August 29, 1992 shooting. Helder was the son of Able Aguiar, the bar owner and Fernando was Able's bother. Among the documented victims' family members: Able Aguiar is deceased; and according to CLEAR Helder Aguiar resides in East Hartford, Connecticut, and Maria Aluiar lives in Glastonbury, Connecticut. DCJ has made contact with the victim and family members to discuss this matter.

V. Additional Considerations.

a. CIU Protocols Preamble.

PREAMBLE

> The Division of Criminal Justice (DCJ) has no more important obligation than ensuring the integrity of the convictions it has secured. Wrongful convictions are a blight on the moral authority of the criminal justice system, and they cause incalculable damage to the people who are condemned unjustly. A single wrongful conviction is too much for any honorable system to bear.

b. The CIU Perspective based on National Best Practice.

Perhaps the truest measure distinguishing a sincere CIU is its approach to cases that lack both conclusive evidence of guilt and clear-cut evidence of innocence. In such cases, the CIU finds itself in a middle ground, concluding that the conviction lacks strength but recognizing that the facts are far from establishing actual innocence. The CIU considers that the most effective units:

> "[E]xamine the case with fresh eyes, considering (a) the likelihood of guilt and (b) the likely sentence for the case if tried today along with (c) the sentence already served by the convicted individual, before deciding upon the best course of action, and communicating his or her decision to defense counsel along with its rationale."

"Conviction Review Units: A National Perspective" by John Hollway of the Quattrone Center[1], University of Pennsylvania Law School April (2016), p. 48.

CIU has considered the evidence in a manner that a jury cannot, allowing for thoughtful analysis and reference to impeachment evidence and other documents (7/14/95 letter), that were not available at trial. This review was done by experienced attorneys and inspectors taking into account the principles set out in the Preamble to the CIU Protocols.

[1] The Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Law School is a research and policy hub focused on structural improvements to the U.S. criminal justice system that will prevent errors and ensure the fair treatment of all.

State v. Taylor was always a close case. There was no forensic evidence that inculpated Taylor, (no DNA evidence, ballistics evidence, video evidence, phone evidence, and physical evidence) Therefore, the evidence that convicted Taylor was only the eyewitness identification testimony of Fitzalbert Williams.

c. What is in the interests of Justice in State v Taylor?

In this case, the NCIC records run in 1994 or 1995 did not contain the two prior 1990 felony convictions. The State's sole eyewitness arguably received a benefit after the trial for his trial testimony. This conviction is based on the identification testimony of this one eye witness who was on furlough and had three prior felonies (two not disclosed) and pending felonies in Milford. There is no documentation indicating the new rap sheets, run just prior to Williams' testimony, were disclosed to the defense. The prosecutor's potential failure to subsequently disclose the pending charges to defense counsel or his failure to notify defense counsel of the letter to SASA Hurley after the verdict also a would be a significant Giglio violation. There is no other evidence that puts Taylor at the fatal shooting of the victim. Given this paucity of corroborating evidence, Williams' credibility is of primary importance. The failure to disclose the pending charges reasonably could raise significant concerns with the verdict.

Derrick Taylor has been incarcerated since his arrest on June 10, 1994, having served 29 years on a case based on one eyewitness identification. He is now claiming ineffective assistance of counsel for not presenting an alibi witness that was available at trial. Considering the totality of the State's case, the paucity of corroborating evidence, the potential failure under Brady/Giglio to disclose the key witness' pending charges and subsequent letter to the Milford prosecutor, the 29 years served to date and the issues raised at his Habeas, a sentence modification may be the appropriate action required to do justice in this matter.

Duties of the Prosecutor.

For over **100 years** this has been our standard:

> *We are mindful throughout this inquiry, however, of the unique responsibilities of the prosecutor in our judicial system. A prosecutor is not only an officer of the court, like every other attorney, but is also a high public officer, representing the people of the state, who seek impartial justice for the guilty as much as for the innocent…*
>
> *The prosecutor's conduct and language in the trial of cases in which human life or liberty are at stake should be forceful, but fair, because he [or she] represents the public interest, which demands no victim and asks no conviction through the aid of passion, prejudice or resentment. If the accused be guilty, he [or she] should none the less be convicted only after a fair trial, conducted strictly according to the sound and well-established rules which the laws prescribe....*

Paraphrasing a quote from State v. Ferrone, 96 Conn. 160, 168–69 (1921).