

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

State of Minnesota,

Plaintiff / Respondent,

vs.

Philip Vance

Defendant / Petitioner.

**AMENDED PETITION FOR
POSTCONVICTION RELIEF UNDER
MINN. STAT. § 590.01**

Court File No.: 19-K6-04-000736

TO: THE ABOVE-NAMED DISTRICT COURT; DAKOTA COUNTY ATTORNEY'S OFFICE.

The undersigned counsels represent and state:

I.

They are the attorneys for the petitioner, Mr. Philip Vance, who is imprisoned and restrained of his liberty in the Minnesota Correctional Facility – Rush City. Mr. Vance's MNDOC Offender ID ("OID") is 215517.

II.

Mr. Vance is confined and restrained of his liberty by virtue of the following judgment of conviction:

Mr. Vance was found guilty on October 5, 2004 of first-degree premeditated murder, first-degree felony murder during an aggravated robbery, and second-degree intentional murder after a jury trial before the Honorable Rex D. Stacey. On October 8, 2004, Mr. Vance was sentenced to life imprisonment for the first-degree premeditated murder charge.

III.

Mr. Vance previously sought relief from his conviction through a direct appeal thereof,

which asserted the following grounds for relief:

- (1) The trial court erred in denying his motion to admit certain alternative-perpetrator evidence and reverse-*Spreigl* evidence
- (2) He was denied a fair trial due to the cumulative prejudicial effect of errors by the trial court, including the admission of evidence that witnesses were threatened, felt threatened, or were fearful;
- (3) The trial court failed to *sua sponte* give a cautionary instruction respecting the evidence in the preceding paragraph;
- (4) The trial court failed to *sua sponte* give a limiting instruction with respect to unredacted statements by police officers asserting that Petitioner was lying;
- (5) Newly discovery evidence entitles him to a new trial;
- (6) The trial court erroneously excluded introduction of a relevant letter; and
- (7) Prosecutorial misconduct occurred when the prosecutor cried during her opening statement.

See State v. Vance, 714 N.W.2d 428, 433 (Minn. 2006) (“*Vance I*”).

On May 25, 2006, the Supreme Court of Minnesota affirmed Mr. Vance’s conviction and rejected all of these arguments for reversal. *See id.* at 433, 436-44.

In May 2007, Petitioner filed a petition for postconviction relief with the district court. *See Vance v. State*, 752 N.W.2d 509, 512 (Minn. 2008) (“*Vance II*”). The district court denied the petition, finding the claims were *Knaffla*-barred and/or baseless, lacking in specificity, and/or lacking in merit. *See id.* Petitioner appealed the postconviction denial to the Minnesota Supreme Court, arguing that he was entitled to postconviction relief based on:

- (1) Ineffective assistance of trial and appellate counsel;

- (2) Newly discovered evidence of witness recantation;
- (3) The insufficiency of the indictment in light of recanted witness testimony;
- (4) Prosecutorial misconduct;
- (5) Failure to submit his charge pursuant to Minn. Stat. § 609.11 (2006) to the grand jury or the jury;
- (6) Cumulative errors preventing him from receiving a fair trial; and,
- (7) The district court abused its discretion by denying him an evidentiary hearing.

Vance II, 752 N.W.2d at 512. The Minnesota Supreme Court affirmed the district court's summary denial of the postconviction petition. *Id.* at 517.

On July 21, 2008, Petitioner filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. *See, e.g., Vance v. King*, No. 08-CV-4756-ADM/SRN, 2009 WL 294361, at *10 (D. Minn. Feb. 5, 2009) ("*Vance III*"). Petitioner argued he was entitled to habeas corpus relief because:

- (1) The trial court's refusal to admit testimony of Petitioner's witnesses;
- (2) The admission at trial of allegedly perjured testimony of witnesses;
- (3) The failure of the prosecution to disclose to Petitioner evidence favorable to him;
- (4) Prosecutorial misconduct during closing argument;
- (5) Prejudicial error by the prosecution misstating and misusing evidence;
- (6) The denial of a right of appeal; and
- (7) Ineffective assistance of counsel

Id. The district court denied the habeas petition. *Id.* at *20.

The Office of the Minnesota Attorney General, through its Conviction Review Unit ("CRU"), has been reviewing Mr. Vance's convictions for years. Pursuant to the CRU charter, at

the conclusion of its investigation, the CRU may join this Petition.

IV.

The facts supporting this petition are more fully set forth in the accompanying memorandum and are incorporated herein. A brief summary of those facts is provided *infra*.

The Minnesota Supreme Court summarized the relevant facts on direct appeal as follows:

On October 5, 2004, a Dakota County jury found appellant Philip Vance guilty of first-degree premeditated murder, first-degree felony murder during an aggravated robbery, and second-degree intentional murder for the shooting death of Khaled Al-Bakri (Al-Bakri). The trial court judge sentenced Vance to life imprisonment. In this direct appeal, Vance raises a number of issues. He contends that the trial court erred when it denied his motion to admit certain alternative-perpetrator evidence and reverse-*Spreigl* evidence. He also contends that he was denied a fair trial due to the cumulative prejudicial effect of errors by the trial court, including the admission of evidence that witnesses were threatened, felt threatened, or were fearful; the trial court's failure to *sua sponte* give a cautionary instruction with respect to that evidence; and the trial court's failure to *sua sponte* give a limiting instruction with respect to unredacted statements by police officers asserting that Vance was lying. Pro se, Vance argues that: (1) newly discovered evidence entitles him to a new trial; (2) the trial court erroneously excluded introduction of a relevant letter; and (3) the prosecutor committed misconduct when she cried during her opening statement and while presenting the state's case. We affirm.

Tariq Bakkri (Bakkri), Al-Bakri's brother and the owner of Sabreen's Supermarket (Sabreen's) in South Saint Paul, was working at Sabreen's on the afternoon of December 22, 2002. At about 2:00 p.m., Al-Bakri arrived and offered to work the rest of the afternoon and evening. Bakkri left the store between 9:27 p.m. and 9:30 p.m. At about 9:41 p.m., Kathleen Johnson arrived at Sabreen's. When she entered the store, she observed a man in a black mask taking money out of the cash register. She thought she heard the man shout something and she saw him make a "motion like he was going to pull a gun out from his pants." She immediately ran from the store to her car. As she drove away, she observed two people running out of the store. One person was slightly taller than the other. Both were slender and wore baggy pants, hooded sweatshirts, and masks.

Also around 9:30 p.m., four teenagers, including D.M., walked to Sabreen's. As they were walking, one of the teenagers noticed a car parked in an alley just outside of Sabreen's. He described the car as a four-door, "regular sized car," "darkish," shiny, and "tinted gray." Another of the teenagers testified that it was a big, dark, "grayish-black," four-door car. The group observed two men run from the store, jump into the car, and drive away quickly. One of the teens described the two men as wearing baggy clothing, while another observed that the two men wore

sweatshirts and dark jeans.

When the teenagers entered the store, they could not locate the clerk. As they waited at the counter, D.M. noticed that the cash register was open. He leaned over the counter and saw Al-Bakri lying on the floor, motionless. He also noticed some blood. The teenagers immediately ran back to D.M.'s home and called the police.

Al-Bakri was pronounced dead at the scene. The cash register indicated that the cash drawer was last opened at 9:35 p.m. for a no-sale transaction. The police found four cartridge casings from a .22 caliber gun on the floor of the store. Two of the cartridges were determined to be Winchester Western brand ammunition and two were CCI brand ammunition. Two bullets were found in Al-Bakri's body, a third was found in a flashlight near his body, and the fourth was not located. The police were unable to find any physical evidence at the scene connecting Vance or any other suspect to the murder and the murder weapon was never recovered.

A number of witnesses testified about Vance's activities before and after the murder on December 22. John Martin, a convicted burglar, testified that on December 22, 2002, he, Vance, and Dominic Johnson were at the Radisson bar in downtown St. Paul between 7 p.m. and 8 p.m. While at the bar, the three discussed the upcoming holidays, and Vance and Johnson discussed making arrangements to buy presents for their children. Martin testified that the three did not discuss a robbery while at the Radisson bar. According to Martin, around 8:30 p.m., Johnson made a phone call from Vance's cell phone to Yvonne and Nicole, two women from South St. Paul. Vance and Johnson told Martin they were going to South St. Paul and invited him along. Martin declined, and the three left the bar. As Martin was heading to his bus, he saw Yvonne and Nicole arrive in a four-door, dark blue Chevy Corsica. The car pulled up to the area where Vance and Johnson were standing.

Melissa Stites, the head bartender at the Radisson bar, testified that on December 22, 2002, Vance, Johnson, and a third man came into the bar around 7:30 p.m. Stites knew both Vance and Johnson, and she testified that they were "more secretive" than usual that evening. When Stites asked them what was going on, Vance replied "that they were getting their plan on." Stites interpreted "getting their plan on" to mean "planning to commit a robbery." Vance and Johnson were in the Radisson bar for about half an hour. As they were leaving, Stites commented that tips were low that night, because Vance and Johnson normally did not tip her. Vance responded, "Don't worry, Baby, when I get back there's going to be plenty of money."

Eric Griffin, an acquaintance of Vance and Johnson, testified that he saw Vance and Johnson arrive at The Buttery, a bar in St. Paul, sometime after 10:00 p.m. on December 22, 2002. Griffin testified that Vance's demeanor was "kind of wild * * * from drinking." Vance was wearing a black hooded sweater and loose-fitting dark blue jeans. Vance told Griffin "that he had did a robbery and it had gone bad, and the guy he was robbing, he had f ___ ed him up." Vance told Griffin that the robbery

had occurred in South St. Paul.

Colleen McManus, the night manager at The Buttery, saw Vance and Johnson outside the bar as she arrived at work sometime between 10:15 p.m. and 10:30 p.m. on December 22. She saw the two get out of a car, which she believed was a four-door, “silver, light green” mid-sized car. Johnson wore a white hooded sweatshirt, a light blue Starter jacket, dark jeans, and white tennis shoes. Vance wore a dark blue jacket with leather sleeves, dark pants, and a dark hooded sweatshirt. As she entered the bar, she saw Vance and Johnson talking to a group of people, which included Maynard Cross. Vance approached McManus and asked her not to “throw him out” of the bar.¹ Vance and Johnson both seemed nervous. When McManus asked Vance what was wrong he said, “I really fued up this time.” She responded, “It couldn't have been that bad,” and he said, “Oh, yeah, it was. I really did it this time. I did it this time.” At one point, Vance started crying, which McManus noted was unusual for him. When she again inquired about his agitation, he said, “Well, I didn't mean for it to happen, it wasn't supposed to happen that way.” He then made a motion that McManus interpreted to mean that he had shot someone. When she asked him if he had shot someone, he replied, “It wasn't supposed to happen like that.”

McManus immediately called to report her conversation with Vance to her brother, John McManus, a police officer assigned to the Minnesota Gang Strike Force (MGSF). On December 23, 2002, Stites also reported the conversation she had had with Vance at the Radisson bar to Officer McManus, whom she knew because she had previously provided information to him.

Stites agreed to participate in an undercover investigation of Vance and on January 3, 2003, Stites met with Vance and Johnson at The Buttery. Stites was meeting with Vance under the guise of purchasing a gun from him, with the hope that she would be able to elicit information about the murder. The police had arranged to intercept Stites' conversation with Vance. At some point during the meeting, Vance asked Stites to accompany him to the Lab, another St. Paul bar. Johnson did not accompany Stites and Vance to the Lab.

At the Lab, Stites asked Vance if he had any guns that she could buy and if he would teach her how to shoot. Vance told her that he had four guns. When asked by Stites if he had ever shot anyone, Vance replied that he had “shot a guy two weeks ago over south side five times in the back.” Police officers who listened to the conversation corroborated Stites' recollection, with slight variations in the exact words that were used to describe the prior shooting: “Two weeks ago Winchester on the south side * * * I shot a guy five times in the back”; “Yes, about two weeks ago over south, Boo * * * I shot a guy in the back five times”; “he shot somebody in the south side five times and it was a Winchester”; “he had shot a guy five times in the back on the south side * * * I shot a guy two weeks ago on the south side.” Vance subsequently sold a .22 caliber handgun to Stites. That gun did not match the weapon used to kill Al-Bakri.

The state also presented testimony from witnesses who were incarcerated with

Vance before trial. According to Isaac Hodge, he and Vance were incarcerated at the Sherburne County jail together in 2003. At one point, Vance and Hodge were looking at a newspaper and Vance saw a picture of a man who was later identified as Maynard Cross, one of the people seen talking to Vance at The Buttery the night of the murder. Vance stated, "Man, this dude put my name in some bulls__t." Hodge also testified that Vance, without going into great detail, told him that he was involved in a murder-robbery. In addition, Vance said "it wasn't worth it," which Hodge interpreted to mean that the amount of money that Vance got in the robbery did not justify the murder. Tyrone Crawford, who was housed at the Sherburne County jail around the same time, had a similar conversation with Vance, in which Vance told him that Vance "shot a guy at the grocery store, and he was concerned that that was going to come back on him." Vance also indicated that Cross "was going to testify against him about shooting somebody * * * at a grocery store."

John Nunn was housed at both the Sherburne County jail and Sandstone Prison with Vance. Nunn testified that Vance told him that he had committed a robbery in which someone "got murked," which Nunn interpreted to mean the person was either hurt or shot and killed. Vance told Nunn that he was concerned about the police finding a .22 caliber handgun that had been used in the robbery.

Dontay Reese testified that, while in the Dakota County jail with Vance, he had multiple conversations with Vance about a murder in which Vance was involved. Vance told Reese, in reference to shooting the clerk, that "it wasn't supposed to go down like that" and "[Johnson] said my name and it wasn't supposed to go down like that. I was zooted, I was drunk and I gave the dude five. And then we got the money and got lit." Vance also told Reese that Johnson, Vance, and Martin were at a bar and left after Johnson called two women, named Yvonne and Tiffany or Nikki, to get a ride to Johnson's cousin's house. Vance told Reese that the women drove a blue Corsica or Accord. Vance and Johnson then met another man and went to a "mom-and-pop store" where Vance and Johnson went inside to commit a robbery. During the robbery, Johnson said Vance's name, so Vance shot the clerk. Vance told Reese he used a "deuce-deuce" to kill the clerk, which Reese interpreted to mean a .22 caliber handgun.

Geronimo Estrada testified that he was incarcerated with Vance at the Ramsey County Workhouse and that they discussed the murder on multiple occasions. According to Estrada, Vance told Estrada that when he entered the store he immediately ran behind the counter and grabbed the clerk, who was startled and did not know what was going on. Vance said the clerk was hysterical and crying saying, "please don't hurt me," and that Vance shot the clerk once or twice in the back of the head. Vance also told Estrada what they took from the store, which included money, cigarettes, plastic bags, lottery tickets, and a telephone. Officer Daniel Vujovich testified that those were the items taken from Sabreen's and that at no time during the investigation was the list of items stolen from Sabreen's disclosed.

At trial, the state introduced recordings of interviews Officer Thomas Kreager and other police officers conducted with Vance during the investigation. During the course of the interviews, the officers accused Vance of lying.

Vance did not testify and presented no witnesses in his defense.

Vance I, 714 N.W.2d at 432-36.

When Mr. Vance submitted his postconviction petition in May of 2007, he submitted affidavits from John Martin and Dontay Reese which “recanted part of their trial testimony.” *Vance II*, 752 N.W.2d at 514. However, the Minnesota Supreme Court did not believe the affidavits had sufficient indicia of trustworthiness to merit a hearing. *See id.* at 514-15. Mr. Vance also submitted affidavits from Edward Townsend and Trevor Crawford, but the courts did not find these affidavits compelled an evidentiary hearing. *See id.* at 516-17. In rejecting Cross’s affidavit, the Minnesota Supreme Court stated it did so because his 2006 affidavit did not meet the test for recanted testimony. *See id.* at 517, n.4. For the same reason, the Court held that the 2006 Cross affidavit did not render Petitioner’s indictment insufficient. *Id.*

In the years since Mr. Vance’s postconviction petitions were adjudicated, Mr. Vance has obtained a plethora of affidavits from trial witnesses recanting their testimony and from witnesses who should have been called at trial by defense counsel. Specifically, Mr. Vance now relies on the following affidavits, in addition to other evidence and previously presented affidavits:

- Multiple affidavits from Maynard Cross, signed in 2006, 2021, and 2024.
- Affidavit of Regina Hagerman, signed in 2021.
- Affidavit of co-defendant Dominick Johnson, signed in 2021.
- Affidavit of Melissa Stites, signed in 2021.
- Affidavit of Darlene Walton, signed in 2023.
- Affidavit of Kentrell Anthony, signed in 2022.

- Affidavit of Dontay Reese, signed in 2007.
- Affidavit of Edward Townsend, signed in 2007.
- Affidavit of John Martin, signed in 2007.
- Affidavit of Michael E. White, signed in 2005.
- Affidavit of Wayne Jones, signed in 2007.
- Affidavit of Trevor Crawford, submitted in support of 2007 postconviction petition.

Of the above affidavits, the affidavits of Melissa Stites, Dominick Johnson, Regina Hagerman, Darlene Walton, Kentrell Anthony, and Maynard Cross's 2024 affidavit are the most important. Each of these affidavits allows the Court to be reasonably well-satisfied that the recanted testimony was false, and that the recantations are genuine to a degree of reasonable certainty. *See Pippitt v. State*, 737 N.W.2d 221, 226-27 (Minn. 2007); *Opsahl v. State*, 710 N.W.2d 776, 782 (Minn. 2006). The affidavits allow the Court to conclude that the jury might have reached a different conclusion without the recanted testimony. *See Pippitt*, 737 N.W.2d at 227. The affidavits demonstrate, at least in part, that Petitioner was taken by surprise at trial or did not know of the falsity until after trial. *See id.* Importantly, Cross's 2021 and 2024 affidavits meet the test for recanted testimony, and therefore render Vance's indictment insufficient. *See Vance II*, 752 N.W.2d at 517, n.4; *see also Opsahl v. State*, 710 N.W.2d at 782.

Additionally, in 2009, the Metro Gang Strike Force ("MGSF") was disbanded after it was discovered "deeply disturbing" behavior by the MGSF and its members. A report entitled REPORT OF THE METRO GANG STRIKE FORCE REVIEW PANEL (Aug. 20, 2009) ("MGSF REPORT") found that the MGSF lost "substantial quantities of evidence that should still be in the evidence room" and routinely mislabeled or misappropriated evidence tied to criminal prosecutions. *See MGSF REPORT*. The report found that MGSF officers routinely violated the constitutional rights of

detainees and criminal suspects by performing and lying about performing warrantless searches and seizures in the absence of facts supporting a good faith belief that an exception to the warrant requirement existed. *See id.* MGSF officers even contaminated valid searches and seizures conducted pursuant to lawfully issued warrants by seizing money and personal items that bore no relation to the matter under investigation and which was incapable of being tied to the suspected criminal activity. *See id.* The report found that “at least one employee of the Strike Force repeatedly accessed the [NCIC] database at the Strike Force’s offices for non-governmental purposes.” *Id.* The report states that “[i]n late 2008, Strike Force officers were asked to sign blank forms permitting the evidence in their cases to be destroyed. Once these documents were signed, Strike Force personnel placed forms noting that evidence was destroyed into files in which the evidence was not, in fact, destroyed.” *Id.*

The MGSF REPORT details that “[a] relative of a Strike Force employee had regular access to the Strike Force offices and was observed handling seized property.” *Id.* It is alleged upon information and belief that this relative was Ms. Colleen McManus, the sister of Strike Force officer John McManus. Ms. Colleen McManus and MGSF officer John McManus were both centrally involved in the investigation into Petitioner, and both testified at Petitioner’s trial.

The MGSF REPORT details that “a number of Strike Force officers shredded documents and most likely placed a large amount of additional material in bins inside the Strike Force offices for shredding by a professional firm,” noting the bins “were full when reviewed” and “included material relevant to numerous cases, including one entire case file.” *Id.* The report noted that “sensitive material, including official case material, old items of evidence, at least two live rounds of ammunition and sensitive information about a Strike Force officer were placed in a publicly accessible dumpster outside of the Strike Force’s officers” on the very day that the Legislative

Auditor released a report suggesting malfeasance by the MGSF. *Id.* In the same vein, the report found that “[i]n the days following the Legislative Auditor’s report, a Strike Force employee tried to delete a file relating to confidential informants working within the Strike Force.” *Id.*

Also important, the report noted that of the case files the investigators reviewed, “[m]any... were severely lacking: (1) information about searches and seizures; (2) information about the involvement of informants; (3) evidence tracking; (4) case status and (5) communications with prosecutors.” *Id.* This is relevant to Petitioner’s case, as there are numerous substantial reasons to believe that MGSF officers withheld *Brady*, *Giglio*, and/or *Youngblood* evidence from both the defense and Dakota County prosecutors. This is especially true regarding taped interviews with informants and witnesses, as Maynard Cross’s 2024 affidavit states that the first time Cross was interviewed, the interview was recorded and in that interview, Cross told the MGSF investigators he did not know anything about the Sabreens robbery, that he did not know Mr. Vance, and that he wanted the officers to leave him alone. *See* Maynard Cross Affidavit (2024). In the same affidavit, Cross swears under penalty of perjury that this conversation was tape recorded, and that if the tape recording is no longer available, then “the investigators must have either lost or destroyed the tapes.” *Id.* No such recording was ever provided to trial, appellate, or postconviction counsel, and such a tape has not been located despite hours of diligent searching through the South St. Paul Police Department’s archived case files. The recording no longer exists because MGSF officers destroyed and otherwise failed to disclose the tape in bad faith. Similarly, it is notable that the wire witness Melissa Stites wore that supposedly captured incriminating statements, and which MGSF officers supposedly heard in real time, was apparently unusable or was otherwise alleged by MGSF officers to be incapable of submitting as an exhibit during trial.

Lastly, documents constituting *Brady*, *Giglio*, and/or *Youngblood* evidence have been

recently discovered in the South St. Paul Police Department case files. *See Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972); *Youngblood v. Arizona*, 488 U.S. 51 (1988). These documents are exculpatory; at minimum, the documents are potentially exculpatory. Their import is addressed more fully in Petitioner's accompanying memorandum.

The MGSF REPORT, witness affidavits, and witness recantations all combine to demonstrate that Petitioner did not receive a fair trial. He was deprived of due process by the actions of MGSF investigators and copious false testimony, given at the behest of MGSF investigators and because of coercive and bad faith police tactics. Mr. Vance has spent more than 21 years in prison because of this unlawful and bad faith conduct. The evidence of Mr. Vance's innocence and wrongful conviction is substantial and justifies granting him an evidentiary hearing.

V.

Mr. Vance, through this petition, is seeking relief based upon the following legal grounds:

1. Mr. Vance's conviction is defective because it relied upon false evidence provided by Melissa Stites, who provided inculpatory evidence against Mr. Vance. Through her affidavit, Ms. Stites explains that she was pressured by members of the Metro Gang Task Force to falsely accuse Mr. Vance of murder, and to assist in the prosecution of Mr. Vance through the provision of false testimony and statements. Ms. Stites' affidavit also explains that she was explicitly instructed by police officers to give false testimony in Mr. Vance's case and at his trial. Stites has recanted her trial testimony and stated that she never heard Mr. Vance make any statement indicating that he played any role in the killing of Khalid Al-Bakri.
2. Mr. Vance's conviction is defective because it relied upon false evidence provided by Regina Hagerman, who testified before the grand jury in Mr. Vance's case about threats

- that Mr. Vance was claimed to have made against Hagerman's then-fiancé to obtain a lawful basis to search the cell of Mr. Vance's co-defendant, Dominic Johnson, which resulted in the obtainment of a letter used at Mr. Vance's trial which made it falsely appear as if Mr. Vance was trying to witness tamper. Hagerman has recanted her trial testimony and stated that she has no knowledge of any fact that indicates Mr. Vance played any role in the killing of Khalid Al-Bakri.
3. Mr. Vance's conviction is defective because it relied upon false evidence provided by Maynard Cross, who provided inculpatory evidence against Mr. Vance. Through his affidavit, Cross has made clear that, contrary to his testimony, he was not at the Buttery on December 22, 2002, but was instead in Milwaukee, WI. Cross's affidavit also clarifies that the details he provided about the circumstances of the murder, which he claimed to have learned from Mr. Vance, originated from conversations with members of the Metro Gang Task Force officers who wanted Cross to incriminate Mr. Vance. Cross has recanted his testimony and stated that has no knowledge of any fact that indicates Mr. Vance played any role in the killing of Khalid Al-Bakri.
 4. Mr. Vance's conviction is defective because the indictment is defective, since the indictment relied on false and inculpatory grand jury testimony provided by Maynard Cross, Regina Hagerman, and Jacqueline Ezell.
 5. Mr. Vance's conviction is defective because it relied upon false evidence provided by Dontay Reese, who provided inculpatory evidence against Mr. Vance. Through his affidavit, Reese explains that he was promised leniency in his own criminal matter by investigators in Mr. Vance's case if Reese could provide any information about Mr. Vance's case. Reese has recanted his trial testimony and stated that he never heard Mr.

Vance make any statement indicating that he played any role in the killing of Khalid Al-Bakri.

6. Mr. Vance's conviction is defective because it relied upon false evidence provided by Trevor A. Crawford, who provided inculpatory evidence against Mr. Vance. Through his affidavit, Mr. Crawford explains that Mr. Vance never made such a confession, and that Mr. Crawford only testified to this effect because investigators threatened to involve Crawford's older brother in the case. Crawford has recanted his trial testimony and stated that he never heard Mr. Vance make any statement indicating that he played any role in the killing of Khalid Al-Bakri.
7. Mr. Vance's conviction is defective because the State failed to disclose *Brady*, *Giglio*, and *Youngblood* evidence in criminal discovery. *See Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972); *Youngblood v. Arizona*, 488 U.S. 51 (1988). For purposes of the *Youngblood* analysis, it is alleged that the State acted in bad faith when it failed to make these disclosures.
8. Mr. Vance's conviction is defective because he was prevented from presenting an alibi defense despite having alibi witnesses available to testify. Specifically, Darlene Walton has provided an affidavit testifying under penalty of perjury that she was with Mr. Vance at that time of the murder, and that neither of them was at the scene of the murder on December 22, 2002. Mr. Vance was unable to present his alibi witnesses through a combination of witness tampering by police and ineffective assistance of trial counsel.
9. Mr. Vance was denied his Sixth and Fourteenth Amendment right to effective assistance of trial counsel and appellate counsel. Mr. Vance's trial and appellate counsels' representation fell below the standard of reasonableness and prejudicially

affected the outcome of the proceedings.

10. Mr. Vance was denied his Sixth and Fourteenth Amendment right to effective assistance of trial counsel when trial counsel unreasonably failed to present alternative-perpetrator evidence at trial relating to Michael Smith and/or Lorenzo Eide, and when trial counsel unreasonably failed to investigate, develop, or call alibi witnesses. *See Vance I*, 714 N.W.2d at 437-39.¹
11. Mr. Vance was denied his Sixth and Fourteenth Amendment right to effective assistance of appellate counsel when appellate counsel unreasonably failed to argue that trial counsel's failure to investigate or present alibi witnesses, or to present alternative-perpetrator evidence at trial relating to Michael Smith and/or Lorenzo Eide, constituted ineffective assistance of trial counsel. *See Vance I*, 714 N.W.2d at 437-40 (making no reference whatsoever to ineffective assistance of counsel, but noting repeatedly the unusual decisions of trial counsel, such as not introducing any alternative perpetrator evidence).

VI.

Mr. Vance respectfully requests the following relief:

1. That the Court accept and consider the brief accompanying this petition;
2. That an Order be issued for an evidentiary hearing wherein proof of the allegations herein can be offered;
3. That an Order be issued directing Respondent, through its counsel at the Dakota County

¹ The Supreme Court of Minnesota determined the trial court erred in excluding alternative perpetrator evidence regarding Eide. *Vance I*, 714 N.W.2d at 439. The Court determined this error was harmless, finding it “[p]articularly significant” that Vance allegedly made “admissions to a number of witnesses that he committed the murder.” *Id.* The witnesses referenced in the preceding sentence consist almost exclusively of witnesses who have recanted their testimony. *Cf. id.*

- Attorney's Office, to produce Petitioner at all hearings held by this Court;
4. That after a hearing on the merits, an Order be issued directing that Petitioner's conviction for first-degree premeditated murder be vacated and set aside;
 5. That after Petitioner's conviction for first-degree premeditated murder is vacated and set aside, an Order be issued directing that the jury verdicts for first-degree felony murder and second-degree felony murder be vacated and set aside;
 6. For such other and further relief as law and justice may require as determined by this Court.

This petition is based upon the Minnesota and United States Constitutions, the Minnesota Rules of Criminal Procedure, case law, the interests of justice, the accompanying memorandum of law and attached exhibits, and such other and further points and authorities as may be subsequently presented to the Court.

Dated: February 26, 2025

Respectfully submitted,

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