

October 1, 2007

COPY

Betty Sephton, Clerk
Mississippi Supreme Court
P.O. Box 249
Jackson, Ms. 39205

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SUPREME COURT
COURT OF APPEALS


RE: William Terry Davis v State of Mississippi
Cause No. 2006-KA-02124-COA

Dear Ms. Sephton,

Would you please accept this filing and ad it to the Appellant
Breif filed by Gus Sermos, attorney at law.

Thank you sincerely,

William Terry Davis

William Terry Davis


P.O. Box 88550

Pearl, Ms. 39288-8550

IN THE SUPREME COURT OF THE
STATE OF MISSISSIPPI

WILLIAM TERRY DAVIS,

APPELLANT

VERSUS

CAUSE NO. 2006-KA-02124-COA

STATE OF MISSISSIPPI

APPELLEE

TRAVERSE FILING TO STATES ANSWER

Filing pro se by Appellant William Terry Davis and request the Mississippi Supreme Court to accept this late filing which was not due to Appellant, so that all issues can be preserved for future appeals.

Respectfully submitted,


William Terry Davis

CERTIFICATE OF INTERESTED PARTIES

Mississippi Supreme Court, Clerk
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Jackson, Ms. 39205-0249

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William Terry Davis

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STANDARD OF REVIEW

This court is required to construe the pleadings of a pro se inmate plaintiff liberally. The United States Supreme Court holds allegations of a pro se complaint to less stringent standards than a formal pleading drafted by lawyers. HAINES V KERNER, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed. 2d 652 (1972). Pro se pleadings are to be construed generally, U.S. V FLORES, 135, F.3d 1000 (5th Cir. 1998) (extensive motions and supplementary pleadings asserting numerous and varied assertions of errors to be construed generously in light of Petitioner's pro se status. Further, the distinction between "frivolous and non-frivolous" pleadings becomes problematic in the context of prisoner's petitions.

Rule 11 Of the Fed.R.C.P., for example, requires that the attorney or unrepresented party "certify" to the "best of the persons knowledge, information and belief", that the claim filed is factual and legally non-frivolous.

The "knowledge, information and belief", of an inmate who lacks legal sophistication could cause him to file a claim in good faith, which, filed by an attorney, would constitute a frivolous pleading. As the United States Supreme Court concluded in HAINES; "although we intimate no view whatsoever on the merits of Petitioner's allegations, we conclude that he is entitled to an opportunity to offer proof." 404 U.S. at 521, 92 S. Ct. 594.

STATEMENT OF ISSUES

- I. Actual, Factual and Legally Innocent
2. Court Errors on Jailhouse Informant and the State withholding Evidence and Exculpatory Evidence
3. Ineffective Assistance of Counsel

IN THE SUPREME COURT OF THE
STATE OF MISSISSIPPI

WILLIAM TERRY DAVIS

APPELLANT

VERSUS

SUPREME COURT NO. 2006-KA-02124-COA

STATE OF MISSISSIPPI

APPELLEE

TRAVERSE TO STATES ANSWER
AND SUPPLEMENTAL APPELLANT BRIEF

COMES NOW, William Terry Davis, pro se, hereinafter called Davis or Appellant as he addresses the States Answer to his Appellant Brief. Davis had written to Gus Sermos, appointed counsel on what he wanted in his Brief. Mr. Sermos has never been to CMCF III Rankin County to interview Davis for that Brief. Mr. Sermos was also instructed not to file this brief until Davis and he had a chance to talk this over. Davis' parents had been in contact with Mr. Sermos and he has promised to send a copy of the States Answer to Davis, however, as of yet and the beginning of this typing Davis has not even received that copy. Davis understands from his parents that Mr. Sermos received the States Answer sometime the first week of August 2007. Mr. Sermos has again promised to send Davis a copy this the week of September 18, 2007.

Petitioner prays this Honorable Court to accept this Traverse regardless of time limits, as Davis has no way of speeding Mr. Sermos up and no way to force Mr. Sermos to follow instructions. Davis realizes this filing may be late, however, he only heard about the States Answer on September 12, 2007.

Petitioner will add three (3) new issues to his Brief.

No. ONE; ACTUALLY, FACTUALLY AND LEGALLY INNOCENT

NO. TWO; THE COURT ERRED IN NOT INSTRUCTING THE JURY
 THAT THE JAILHOUSE INFORMANT, RICKY LEE, STATEMENTS
 AND TESTIMONY MAY BE FALSE. AND THAT NO CORROBORATING
 EVIDENCE WAS PRESENTED TO BACK UP HIS TESTIMONY.

NO. THREE; INNEFFECTIVE ASSISTANCE OF COUNSEL AND CONFLICT OF
 INTEREST CONCERNING DEFENSE COUNSEL ROBERT CLARK.

ISSUE NO. I.

ACTUALLY, FACTUALLY, AND LEGALLY INNOCENT

Davis from the first day of questioning by detectives on May 17, 1994 has maintained his innocence. Not only has he maintained his innocence, he has cooperated with detectives in every facet of their investigation. Davis did everything that detectives asked of him during the investigation. When Davis' ex-wife, Lorena Davis, was found murdered on May 17, 1994 at 9:00 am detectives came directly to Davis' house. Davis lived with his parents thirty-eight (38) miles away from the crime scene. Detectives arrived at the Davis house around 10:30 am May 17, 1994 within a few hours of the murder. Davis and his parents permitted a complete investigation of thier premises, cars, trucks, sheds, closets and clothing. Detectives went over the residence with a fine tooth comb.

That same evening May 17, 1994, Davis was asked to come to the police station for questioning and a formal statement. Davis arrived there approximately at 6:30 pm. Davis was at the police station until the late hours giving a statement and assisting detectives about suspects. The police station was in Natchez, Ms. thirty-five (35) miles from Davis' parents home. The next day, May 18, 1994 detectives and Davis went to Jackson. Ms. to the Miss. Crime Lab so that DNA samples could be taken from Davis. Also, Davis took three (3) polygraph examinations at that Crime Lab and the Examiner told Davis and detectives that he passed each one with flying colors and that Davis was truthful on every

question on that exam.

Statements were taken from Nicole Howell, niece, 16 years old, Davis' father, Boyce Davis, his Mother, Jeanette Davis and they spoke to Davis' two small daughters who spent the night with Davis and his family. These five (5) witnesses accounted for Davis' whereabouts from May 16, 1994 through May 17, 1994, and all testified at trial (TR 267-315).

According to detectives, the Coroner, and experts, the murder of L. Davis was between 3:00 am and 6:00 am on May 17, 1994. Facts in this case revealed that DNA would possibly play a major role in solving this crime. However, it turned out DNA only proved what did not happen. First a baseball bat was taken the day of the murder, and tested for DNA. It was negative. Second, DNA found at the crime scene, blood, hairs, nail scrapings on the fingers of L. Davis could not match or tie anyone to the crime scene. A footprint was also observed, still no match. DNA matches were tried on possible suspects. The ex-husband, William Davis, Sam Wilkerson, paramour, Ricky Chapman, friend, Other suspects were not tested. J.A. (Smack) McDaniel, owner of the house L. Davis lived in and the murder scene. Glen Davis, no relation, Vidalia, La, who admitted to Vidalia Police that he killed a woman that night. A black male that had cut the grass four (4) days before this murder. That black male has never been found. (Exhibit C and T).

After a few days of this investigation and detectives were getting nowhere, they zeroed back on William Davis. Davis had countless meeting with detectives over the next few years and the investigation turned into a cold case with no new evidence or suspects. Davis was told by detectives that the case would remain open as a cold case. Davis continued to be concerned about this investigation over the next few years. "Davis was not arrested or detained at any time over the next eleven (11) years."

However, on June 2, 2005 Ricky Lee was arrested for possession

of drugs at 1:10 am June 2d, 2005. William Davis was in the County Jail for a probation violation. After Lee's arrest he immediately turned "JAILHOUSE INFORMANT" against Petitioner. The early morning of June 2, 2005, Lee took detectives out to his home and gave them a "TENT STAKE" that could have been the possible murder weapon. That plastic tent stake was tested and found to have deer blood on it, not human blood. A second baseball bat was then taken from Lee's house as a possible murder weapon, but that bat had no blood on it either. However, that baseball bat became the suspected murder weapon.

Autopsy reports clearly show particles of plastic on L.Davis and in some of the wounds, suggesting a plastic object was the murder weapon, not the baseball bat. (Exhibit B).

The plastic stake has never been recovered and no evidence of that tent stake was ever given to Petitioner, his attorney prior to trial. Yet that baseball bat is referred to as the "TENT STAKE" several times throughout the trial. Petitioner requests an evidentiary hearing to determine the whereabouts of that TENT STAKE. Withholding evidence is a Brady violation, Brady v U.S. 376, U.S. 83, 83 S. Ct.1194)

Additional facts in this case show that Davis never left his residence the night of May 16th, 17th, 1994. Infact no one left that house that night because of weather. It rained very hard most of the evening of May 16th into the early hours of May 17th. Mr. Boyce Davis, Petitioner's father had just built a new road from the highway up to his trailer and that new road was a muddy road with some gravel on it. Mr. Davis, father, was so concerned about that road he went out the morning of May 17th to check it out with his wife, Jeanette, because she had to leave at 4:45 am to pick up her daughter. (TR 291).

"Please note, that no vehicle left tire marks in that new driveway during the hours between 6:00 pm May 16th and 4:45 am May 17th.

Mr, Davis, Sr. was concerned that his wife may not be able to get out of that driveway that morning. The storm was so severe

the evening of May 16th that the electricity went off for a couple of hours prior to 9:00 pm. (TR 267-315).

The Jailhouse informant, Ricky Lee, asserted that Petitioner came by his place of work around 10:00 pm May 16, 1994. Which will be entirely discussed in ISSUE NO. II. That statement and testimony clearly shows that Ricky Lee was either mistaken badly or he was committing perjury.

Lee's assertion that Davis came by his work at 10:00 pm and made statements that he beat Lorena really bad this time and that he was crying and very distraught. Loranea was not murdered until 5-8 hours after that alleged 10:00 pm meeting, between 3:00 am and 6:00 am. (SEE ISSUE II.)

Petitioner understands that a claim of actual innocence is not a constitutional violation, however, in HOUSE V BELL 126 S. Ct. 2064 L. Ed 1; 2006 Lexis 4675; 74 U.S.L.W.4291 19 Fla. weekly Fed. S 229 (June 2006). Shows that a colorful showing of actual innocence opens the door for procedural default. And in FAIRMAN V ANDERSON, 188 F. 3d 635,644 (5th Cir1994) citing ward v Cain 53F 3d 106,108 (5th Cir 1995), that a fundamental miscarriage of justice could have occurred. In SCHULP V DELO, 513, U.S. 298, 15 S. Ct. 851; [2] habeas Corpus Key 897, 197K897 Most Cases Cited;

Habeas Corpus claims of actual innocence is not a constitutional claim, but instead a gateway through which he had to pass to have his otherwise barred constitutional claims considered on the merits. U.S.C.A. AMMED. 6.

The overwhelming weight of the facts and evidence in this case was and is in favor of Petitioner.

ISSUE NO. II.

THE COURT ERRED IN NOT INSTRUCTING THE JURY THAT A JAILHOUSE INFORMANT, RICKY LEE, STATEMENTS AND TESTIMONY MAY BE FALSE AND THE STATE PRESENTED NO CORROBORATING TO

BACK UP HIS ASSERTIONS AS REQUIRED BY LAW

This whole case and indictment was solely based upon the statements and testimony of one (1) witness, Ricky Lee, a "JAILHOUSE INFORMANT". The United States Supreme Court in GIGLIO V. United States, 405 U.S. 150; 92 S.Ct. 763; 31 L.Ed. 2d 104; 1972 U.S. Lexis 83 states;

When the reliability of a given witness may well be the determinate of guilt or innocence, the prosecution's non-disclosure of evidence affecting credibility justifies a new trial, under the due process irrespective of the prosecutor's good faith or bad faith. U.S.C.A Const. Amend. 6 and 14.

Under the due process clause, the prosecution's suppression of material evidence justifies a new trial irrespective of the prosecution's good faith or bad faith.

The controversy in this case centers around the testimony of one (1) witness, Ricky Lee, a Jailhouse Informant. Who after eleven (11) years comes forward alleging that Petitioner made statements to him eleven (11) years previously, giving him a "TENT STAKE" and Baseball Bat", that possibly could have been the murder weapon. Although for eleven (11) years Lee tells no one keeping this vital information to him self, even though Lee himself was a suspect in this murder and questioned by detectives in May and July 1994 right after this murder. (TR 189). Lee also admits at trial that he kept those items for future evidence. The question now becomes, why would Lee keep those items for eleven (11) years without telling anyone?

Ricky Lee, an exconvict, twice before convicted of selling controlled substances, in 1994 and again in 1998. Lee gets stopped by police at 1:10 am June 2, 2005 and found to be in possession of marijuana and powder cocaine, drug paraphernalia, and possession of a gun by an ex-felon. These items were discovered in Lee's truck the night of June 2, 2005 when he was stopped at a routine traffic stop. Case No. 06-Kr-0045-J. (Exhibit E). Lee immediately turned informant against Petitioner, making false statements to get himself out of a new legal problem that

could send him to prison for life as an habitual offender. Miss. Code Ann. 99-19-81.

In this case there were no witnesses that connected Davis to this crime. Davis was thoroughly investigated in this crime during 1994 and no evidence was found that could implicate him in this murder, including Davis' cooperating with detectives immediately after this murder, Davis making statements (Exhibit U), undergoing extensive questioning the morning of this murder at his home, Davis and his father, Boyce, giving detectives permission to search the home, automobile, sheds, his clothing and the placement of Davis' car in the driveway where it had not been moved the previous night. Davis then went to the police station in Natchez, Ms. at 6:00 pm May 17, 1994, made a formal statement, (Exhibit U), and remaining at the police station until almost 12:00 pm assisting detectives with who could be possible suspects, and still undergoing questioning. The next day, May 18, 1994, Davis went to the Miss. Crime Lab with detectives to undergo a polygraph examination. Davis was administered three (3) exams over a period of four hours, and according to the examiner, Davis passed all three with flying colors. The examiner also told detectives that Davis was telling the truth on every question that was asked of him. Davis also supplied detectives with a DNA sample and a rape kit. (Exhibit V). Several items were found at the crime scene involving DNA material and none matched Davis. However, there was a hair that the Lab could not match. The only person refusing to give a DNA sample was J.A. (Smack) McDaniel, the owner of the house (murder scene), and a paramour of the victim, Lorena Davis. McDaniel also refused a polygraph examination. McDaniel had no alibi for the night of this murder either. (Exhibit T).

A motion for disclosure was filed prior to trial for all statements and or evidence, however, Ricky Lee's first statement to detectives on May 17-18, 1994 were never given to Davis or his attorney. BRADY V. MARYLAND, 373 U.S., at 87, held that suppression of material evidence justifies a new trial, "irrespective

good faith or bad faith of the prosecution." See American [*154] Bar Association, Project on Standards for Criminal Justice, Prosecution Function and The Defense Function §3.11(a). One has but to look at Ricky Lee's statements of June 2, 2005 and again on July 26, 2005 and his testimony at trial to determine the inconsistencies and that original statements made to detectives back in 1994 when he was a suspect in this murder could have been used for impeachment as outlined in, BRADY, supra, at 87. Non-disclosure of evidence affecting credibility falls within this general rule NAPUE V. ILLINOIS, 360U.S. 103, 112213(1959). Also United States, V. Keogh, 391 F 2d 138,148 (CA 1968), A finding of materiality of the evidence is required under BRADY, supra, at 87. A new trial is required if the false testimony could... in any reasonable likelihood have affected the judgment of the jury. ... Napue, Supra, at 271.

Another question arises out of Lee's testimony! Did Lee receive immunity, or any promise of leniency for his testimony. There is no way for Petitioner to investigate that fact, however, Petitioner's Mother Jeanette Davis went to the Court House Clerk's Office in September 2007 and the Clerk wrote on the Detention Report 06-KR-0045-J NOTHING BEEN DONE, Petitioner must assume that that means no indictment or conviction. Eighteen (18) months after Petitioner was convicted by his testimony alone. Just how important was Ricky Lee's testimony? The prosecutor in closing arguments, clearly states that there would not be a trial if Lee had not come forward with his testimony. That statement is incorrect as fact. Lee clearly comes forward, but not on his own. Lee waited eleven (11) years, AND ONLY AFTER HE IS ARRESTED AGAIN, DOES HE COME UP WITH ASSERTIONS AND A CLEARLY FABRICATED STORY ABOUT Davis. It appears by the records that Lee received immunity for his testimony as nothing has been done, even though Lee was facing a life sentence under the Habitual Offender Act, or at least no less than sixty (60) years with the gun charge. In FUSELIER V. STATE of Miss. 468 So.2d 45;1985 Miss. LEXIS2035; "If, as we have repeatedly held, the prospect of immunity from prosecution is relevant to the credibility of a witness's statement, so then must be the threat of further prosecution. The duty of assessing the credibility belonged exclusively to the jury and as that issue

was critical to the defense, the trial Court committed reversible error by not allowing the jury to hear and be fully informed of the facts relating to it. Also see KING V. STATE of MISS., 363 So. 2d269;1978 Miss.LEXIS 2186.

As in this case Lee's testimony was critical and the State almost entirely relied upon Lee to gain this conviction. Without Lee there certainly was not enough evidence to carry this before a jury as noted by the eleven (11) years between this murder and the case being tried. It was Lee who gained this conviction for the State and Lee was a twice convicted felon, arrested again, facing life in prison, and that was more than enough motivation to make up his story to get out of this life sentence. Yet how credible was Lee's statements and testimony, especially him being a suspect in this murder in the first place. Who was in possession of that TENT STAKE AND BASEBALL BAT? Lee's statements and testimony is so inconsistent with the facts in this case, that the prosecutor tried to give false information to the jury in closing to cover-up Lee's errors. (TR335).

On June 2, 2005, Lee only told detectives about being given a "TENT STAKE" by Davis about two weeks after this murder. That stake was tested and deer blood was found on it. Sometime later Lee comes up with a BASEBALL BAT, and gives that to detectives as a possible murder weapon. Then eight (8) weeks later on July 26, 2005, Lee expands his story to include a meeting at his work the night of this murder with Davis. It is taking Lee long enough to solidify his story. However, lets look at Lee's testimony!

Lee asserts that Davis came by his place of employment the night of the murder, May 16, 1994 thru the morning of May 17, 1994. Lee worked between the hours of 5:00pm and 5:00am that night. This murder happens between 4:00 am and 6:00am on May 17, 1994. Lee goes home that morning and his wife tells him about the murder. Lee asserts that Davis came by his place of employment about 10:00 pm that night. That had to be the night of May 16, 1994. BEFORE LORENA DAVIS WAS EVEN MURDERED. The prosecutor in closing tries to claim that Lee is testifying that Davis came by the night

of May 17, 1994. However that was impossible, because Davis was at the Natchez Ms. Ploice Dept. until midnight on May 17, 1994 undergoing questioning and helping detectives sort out possible other suspects. Davis' attorney, Robert Clark, did not catch this at trial. The prosecutor made a mistatement of fact, that Davis came by Lee's business the night after the murder. Lee also testifies that there were nine (9) other workers in that chipping mill that night, yet no one saw Davis other than Lee. Lee also testifies that the chipper he operated was a two man operation and that Hank Haney was operating the other end of that mill. Haney did testify that Davis came by the night of May 17, 1994 about 5:00 to 6:00 PM and asked for Lee, however Lee was not at work that night, (MAY 17, 1994), (TR 188, 189). Davis went by to see Lee to asked him to be a paulbearer at Lorena's funeral. Lee was not at work that night. (Also see TR208, 209), Hank Haney testimony.

There was not an ounce of corroborating evidence to Ricky Lee's assertions, not one ounce of evidence that Davis committed this murder and corroborating evidence is required when a "JAILHOUSE INFORMANT" makes assertions of this type.

This is a new ruling by the United States Supreme Court in early 2003 or 2004 that does not permit the use of a jailhouse informant without corroborating evidence.

Petitioner has filed for help from the Inmate Legal Assistance Program here at CMCF III, but they cannot help him without a case to start with. Petitioner furnished GILLIO V United States and asked IL P to sheperdize that case, however, he has not received an answer. Petitioner must rely upon "The Standrd of Review" attached to this Petition for help in finding that case cite.

Once the detectives zeroed in on Petitioner back in 1994 and they could not come up with any evidence to arrest, indict or even charge him, those detectives let this case become a cold case over the next eleven (11) years. One suspect that they completely forgot was J.A. (Smack) McDaniel. a 65-70 year old white male that was infatuated with Lorena Davis, in fact Smack

was madly in love with Lorena. He furnished her the home she was murdered in, he gave her money, he purchased her cars and stalked her day and night. He also told her that if he caught another man in his house he'd make her move out. He constantly drove by that house day and night. He bought her a new Chrysler New Yorker, a Mercury Cougar, and a Dodge Dynasty. He'd get mad at her and take away a car, then turn around and buy her another one. MacDaniel lied to detectives about supporting Lorena, (See Exhibit T), and Lorena Davis' diary found after the murder. (Exhibit S). There are several witnesses to the fact that J.A. McDaniel was Lorena's sugar daddy. He was in his 70's she was 30. McDaniel also refused to take a polygraph test or to furnish DNA samples and there was one hair found at the crime scene on the bed where Lorena layed that has never been matched to anyone. Detectives did not followup on McDaniel in 1994. Lorena Davis and J.A. McDaniel had a joint bank account together with ballances that exceeded \$20,000.00. The same week of her murder, McDaniel and her had planned a trip to London, England, (Exhibit R). A prime witness to McDaniel's and Lorena Davis' relationship and his stalking her all hours of the night is Tammy Johnson, William Davis' sister-in-law. Most important McDaniel did not have an alibi for the night of this murder, (Exhibit T).

As you can see this case is in a shambles. One has all but to look at all the suspects in this case without an alibi, then look at William Davis' alibi and this case comes together like a large puzzle, piece by piece for anyone to see the big picture. William Davis, all along has denied killing his ex-wife and he above all laid out his heart to detectives from day one of this murder and cooperated to the fullest to help solve Lorena's murder. Not only did Davis have a bullet proof alibi with five (5) reliable witnesses and a weather condition the night of this crime clearly tells a complete story that William Davis, this Petitioner, is not only not guilty by all reasonable doubt, he is innocent of this crime.

ISSUE III.

INNEFFECTIVE ASSISTANCE OF COUNSEL

APPELLANT Counsel Rendered ineffective assistance of counsel in violation of the sixth amendment to the United States Constitution.

The Sixth Amendment of the United States Constitution guarantees that every defendant is entitled to the assistance of counsel in presenting their defense. The Supreme Court has stated that "the right to counsel is a fundamental right of criminal defendants; it assures the fairness, and the legitimacy of our adversary process".

Kimmelman v. Morrison, 447 U.S. 365, 374 (1986).

To establish ineffective assistance of counsel, a defendant must satisfy a two-prong test set forth by the United States Supreme Court in Strickland v. Washington, 466 U.S. 688, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Osburn v. State, 695 So.2d 570 (Miss. 1997). Under this two-prong test, the defendant must show that counsel's performance fell below an objective standard of reasonableness as defined in professional norms. This means that the defendant must show that his attorney made errors "so serious that counsel was not functioning as the 'counsel' guaranteed by the Sixth Amendment Strickland, 688 U.S. at 694. Second, once a defendant satisfies the first prong, he must allege, with specificity and detail that the counsel's deficient performance so prejudiced his defense, he was denied a fair trial. Id. There must be a "reasonable probability that, but for the counsel's unprofessional errors, the result of the proceeding's would have been different". Mohr v. State, 584 So.2d 426, 430 (Miss. 1991). This means a "probability

Also Davis knew that the victim, Lorena Davis, was buying drugs from Ricky Lee. Clark told Davis he was afraid of getting into drugs with Lee and Lorena Davis. Petitioner thought this very strange, however, he did not find out until after trial that Robert Clark himself was involved in dealing and using drugs with Ricky Lee. (Exhibit L). It now appears that Clark was afraid of cross-examining Lee to the extent needed to impeach all his testimony, especially about drugs and himself being a suspect in Lorena's murder. This alone shows ineffective assistance of counsel during the investigation and trial phase of this case. (2)). Clark did not request jury instructions about Lee being a third time offender and that he was facing a life sentence if convicted of this third charge. The jury instruction should have been that what is required by law concerning a "JAILHOUSE INFORMANT" and the Court also erred in there not requiring that same instruction. The jury was entitled to know and understand the seriousness of Lee's arrest and what that meant to his possible lying to get out of that sentence. "THE JURY WAS NOT PUT ON NOTICE ABOUT LEE'S POSSIBLE SENTENCE AND THEY WERE NOT INSTRUCTED IN THE LAW ABOUT HIS TESTIMONY." Any reasonable attorney would have requested those instructions, however, Robert Clark, had motives not to do so. (Exhibit L). (3). Davis instructed Clark about witnesses that testify about other paramours of Lorena Davis, that possibly could have committed the heinous crime. Sam Wilkerson admitted fighting with Lorena and there were witnesses that would testify that he beat her up more than one time. Also Wilkerson admitted being angry at Lorena for wanting to go to London, England with J.A. McDaniel that very week of her murder, and that they were fighting about that. Petitioner also informed Clark to subpoena DNA samples of McDaniel to determine if hairs found at the crime scene were his. Clark said that the Court would not and could not order that test. Davis wanted Clark to hire a private investigator to get DNA from something that McDaniel's touched, a glass, silverware, a cup, or a cigarette. Clark thought that was not important.

Petitioner also instructed Clark to further interview McDaniell concerning DNA tests and a polygraph test. Petitioner thought it very funny that McDaniell would not agree to that testing. Again Clark failed to get this done. (4). Most important Petitioner instructed Clark to get DNA testing done on Lorena Davis' fetus, to find out who the father was. Wilkerson said that Lorena was not happy about her being pregnant and that he was. Wilkerson was in love with Lorena and he did not have an alibi for the night of this murder. (Exhibit R). Wilkerson was also unhappy about her trip to London, England. Wilkerson may have been very unhappy about Lorena being pregnant and in a fit of rage that night killed her for several reasons. The one hair that was never matched may well have been the killer. The father of her baby may also have been the killer.

For the foregoing reasons, Petitioner believes that this meets the two prong test in Strickland. This was not a simple case where a defendant gets some time in prison, this was a major crime where the stakes were much higher, LIFE IN PRISON. Robert Clark should have been on top of all the problems, and several suspects in this case and he should have investigated all of them thoroughly. Petitioner tried everything he could to help police and Robert Clark in his defense. Petitioner was the only one with an airtight alibi. None of the rest did. (5). Detectives in Vadalia, La. investigated Glen Davis, (no relation), although known by Petitioner and Lorena Davis, and when Natchez P/D was notified they only interviewed this Davis a short while. Even though that Davis admitted killing a female that night. Petitioner also instructed Clark to get a private investigator to follow-up on this Glen Davis. Robert Clark would not even talk to Petitioner about all the other possible suspects and, by law, Petitioner had the right to inform the jury about all these other suspects.

Petitioner really does not like pointing his finger at anyone else, however, he is at a loss for words about how he could be convicted of a crime of murdering his childrens Mother, when he never left the house that whole night.

in the past that had been resolved over a year before, by getting a divorce. Petitioner was a long distance truck driver, and he stayed on the road quite a bit, however, his now ex-wife was carrying on several relationships, accepting money and support from a 70 year old man, buying drugs from another had gotten pregnant, and was traveling to London England with the sugar daddy that her new boyfriend was against. Petitioner was living at home with his parents, working regularly and supporting his children and spending time with them.

Petitioner's attorney, Robert Clark, was not acting as a defense counsel as required and had he been doing so the outcome of this case surely would have had a different outcome. Petitioner believes that if DNA found at the crime scene that matched no one tested and J.A. McDaniel had been tested that there would have been a match there. From the bottom of his heart, Petitioner, believes that J.A. McDaniel murdered Lorena.

Petitioner, prays this court to accept this supplemental brief and traverse and will render a decision to reverse and remand this case for a new and fair trial, or to render a decision of actual innocence in this case.

Respectfully submitted,


William Terry Davis

STATEMENT OF PERJURY

A Research of Ricky Lee's statements and testimony at trial
Petitioner finds several errors and perjury. They are as
follows;

1. Made statements to detectives in July 2005. (TR191) False
2. Lee testifies that his life is now straightened out. (TR194).
If you call straight with major drug charges facing you at
the time he testifies against Petitioner.
3. Lee testifies that he had no drug charges against him in 1994.
(TR196). (See Exhibit H).
4. Lee commits false statements to detectives on June 2, 2005.
5. Lee states he was out on bond when he makes his first statement
in June 2005. NOT TRUE. He made his first statement June 2,
2005 and he bonded out June 6, 2005. (Exhibit X).(TR 198).
6. Lee testifies that he gave his second ststatement in March 2006.
(TR 199-200). (See Exhibit G).
7. That Petitioner gave him that baseball bat.


WILLIAM TERRY DAVIS