

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

FILED  
2017 MAR 31 AM 10:32

JOSEPH WEBSTER,

*Petitioner-Appellant,*

v.

STATE OF TENNESSEE,

*Respondent-Appellee.*

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Case: M2016-02309-CCA-R3-PC  
Post-Conviction—DNA

APPELLATE COURT CLERK  
NASHVILLE

APPELLANT'S NOTICE OF VOLUNTARY DISMISSAL

COMES NOW Petitioner-Appellant Joseph Webster, by and through undersigned counsel of record, and respectfully notifies this Court of his intention to dismiss the instant appeal as moot. Upon application of the Petitioner, the State has entered into a voluntary agreement to conduct forensic DNA testing of the evidence that forms the basis for this appeal. Consequently, Petitioner will obtain the full measure of relief that he is seeking through this appeal, and he voluntarily dismisses it as moot as a result.

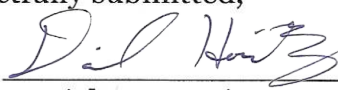
On February 24, 2017, this Court granted Petitioner's Temporary Motion to Stay his appeal pending the outcome of negotiations with the Davidson County District Attorney's Office regarding voluntary DNA testing. See February 24, 2017 Order, Case: M2016-02309-CCA-R3-PC. This Court further ordered Petitioner's counsel to "update this Court in writing no later than March 31, 2017, about the status of this case." *Id.* In compliance with that Order, Counsel provides the following update to the court:

On March 1, 2017, Petitioner, through counsel, filed a formal Conviction Review Request with the Davidson County District Attorney's Office. See **Exhibit A**. Thereafter,

the Davidson County District Attorney's Office formally approved Petitioner's request for voluntary DNA testing. Both a Letter Agreement memorializing the parties' mutual determination that DNA testing should be conducted in this case and an Agreed Order establishing the procedures for such testing were executed by the parties on March 31, 2017. *See* **Exhibit B**.

The terms of the parties' Letter Agreement and Agreed Order establish that Petitioner will be afforded the full measure of relief that he is seeking in the instant appeal. *See id.* As a consequence, Petitioner respectfully dismisses this appeal as moot.

Respectfully submitted,

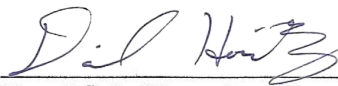
By:   
Daniel A. Horwitz, BPR #032176  
1803 Broadway, Suite #531  
Nashville, TN 37203  
daniel.a.horwitz@gmail.com  
(615) 739-2888

*Counsel for Petitioner-Appellant*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31<sup>st</sup> day of March, 2017, a true and exact copy of the foregoing was sent via email and/or USPS, postage prepaid, to the following:

Leslie E. Price  
Office of the Attorney General  
425 Fifth Avenue North  
P.O. Box 20207  
Nashville, TN 37202

By:   
Daniel A. Horwitz, Esq.

# Exhibit A



**RECEIVED****MAR 31 2017**Clerk of the Courts  
Rec'd By \_\_\_\_\_**OFFICE OF THE DISTRICT ATTORNEY GENERAL**GLENN R. FUNK  
District Attorney General**Conviction Review Unit**Request No. \_\_\_\_\_  
(To be supplied by the DA's Office)**CONVICTION REVIEW REQUEST****INSTRUCTIONS –READ CAREFULLY**

The Davidson County District Attorney General's Office may review, upon request, certain convictions that occurred in Davidson County. This questionnaire is considered a person's request to have such a conviction reviewed.

**IF THE MATTER YOU WANT REVIEWED DID NOT RESULT IN A CONVICTION, STOP HERE. YOU DO NOT NEED TO GO FURTHER. MATTERS THAT DO NOT RESULT IN A CONVICTION WILL NOT BE REVIEWED.**

**IF THE CONVICTION YOU WANT REVIEWED OCCURRED IN ANOTHER COUNTY OR IN A FEDERAL COURT, STOP HERE. YOU DO NOT NEED TO GO FURTHER. CONVICTIONS THAT OCCUR OUTSIDE OF DAVIDSON COUNTY OR IN A FEDERAL COURT WILL NOT BE REVIEWED.**

Once completed, mail this questionnaire and attached documents to:

Office of the District Attorney General  
20<sup>th</sup> Judicial District, Davidson County  
Conviction Review Unit  
Washington Square, Suite 500  
222 2<sup>nd</sup> Avenue North  
Nashville, TN 37201-1649

or email the completed questionnaire and attached documents to RobertJones@jis.nashville.org

The following information is required for the Conviction Review Unit of the Davidson County District Attorney General's Office to consider your request and determine whether the conviction will be reviewed:

1. Convicted defendant's name: Webster Joseph Dejuan  
last first middle
2. Convicted defendant's date of birth: December 21 1978  
month day year

CRIMINAL DIVISION • 20TH JUDICIAL DISTRICT • DAVIDSON COUNTY

Washington Square, Suite 500 • 222 2nd Avenue North • Nashville, TN 37201-1649  
Tel. 615 862-5500 • Fax 615 862-5599

3. Is the convicted defendant incarcerated? Yes ☒ No ☐

4. If presently incarcerated, please provide the following information:

a. TOMIS No. (Tennessee Department of Correction Inmate number): 00354409

b. Prison where incarcerated: Riverbend Maximum Security Institution

c. Address of prison: 7475 Cockrill Bend Blvd., Nashville, TN 37209  
street city state zip

5. If not incarcerated, please provide the contact information for the convicted defendant:

a. Home address: \_\_\_\_\_  
street city state zip

b. Mailing address: \_\_\_\_\_  
street city state zip

c. Phone number: \_\_\_\_\_  
home cell

d. Email address: \_\_\_\_\_

6. Name and division of the court where the defendant was convicted and sentenced:

Davidson County Criminal Court I  
Name of Court Division

7. Davidson County Court Docket Number(s):

2005-B-1384

8. Crime(s) the defendant was convicted of:

First Degree Murder

9. Date convicted: March 1 2006  
month day year

10. Date sentenced: April 11 2006  
month day year

11. Sentence received: Life in Prison

12. Expected release date: N/A  
month day year

13. How was the defendant convicted? (Please check which one below.)

- a. Jury Trial ☒
- b. Judge Trial ☐
- c. Guilty Plea ☐
- d. No Contest Plea ☐
- e. Best Interest Plea ☐

14. Is the conviction currently being challenged on appeal? Yes ☐ No ☒

15. Is there a Post Conviction Relief Petition pending? (For DNA testing) Yes ☒ No ☐

16. Has a Post Conviction Relief Petition been filed before? Yes ☒ No ☐

17. Is there a Writ of Error Coram Nobis Petition pending? Yes ☐ No ☒

18. Has a Writ of Error Coram Nobis Petition been filed before? Yes ☒ No ☐

19. Is there a Habeas Corpus Petition pending before any court? Yes ☐ No ☒

20. Has a Habeas Corpus Petition ever been filed before in any court? Yes ☒ No ☐

21. Did the defendant give a statement to law enforcement? Yes ☒ No ☐

22. If there was a trial, did the defendant testify in the trial? Yes ☒ No ☐

23. What new evidence, if any, exists that was not known at the time of trial? If you need extra space, you may attach additional pages to this request.

Please see attached.

24. Please state the reason(s) the conviction should be reviewed. If you need extra space, you may attach additional pages to this request.

Please see attached.

25. You may attach exhibits or documents to this questionnaire to assist the Conviction Review Unit's examination of your request.
26. If this request is being submitted by someone other than the convicted defendant, please attach the written consent of the convicted defendant to this request.
27. If submitted by someone other than the convicted defendant, please provide so that we can contact you:

- a. Your name Horwitz Daniel Alexander  
last first middle
- b. Your address 1803 Broadway, #531 Nashville, TN, 37203  
street city state zip
- c. Your phone number (615) 739-2888 (310) 948-9354  
home cell
- d. Your email address daniel.a.horwitz@gmail.com
- e. Your relationship to the convicted defendant Counsel

28. If submitted by the convicted defendant, please sign below:

Joseph Webster  
Signature of Claimant

Joseph Webster  
Type or Handwrite Name

3      1      2017  
Date:    Month                  Day                  Year

Once this questionnaire is received by the Davidson County District Attorney General's Office, you will be contacted and informed of the status of your request.

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JOSEPH WEBSTER,

*Petitioner,*

v.

STATE OF TENNESSEE,

*Respondent.*

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**Case No. 2005-B-1384**  
***Post-Conviction-DNA***

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**PETITIONER'S SUPPLEMENTAL INFORMATION IN SUPPORT OF  
REOPENING INVESTIGATION**

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**DANIEL A. HORWITZ, ESQ.**  
**LAW OFFICE OF DANIEL A. HORWITZ**  
**1803 BROADWAY, SUITE #531**  
**NASHVILLE, TN 37203**  
**(615) 739-2888**  
**daniel.a.horwitz@gmail.com**

*Counsel for Defendant Joseph Webster*



## I. Case Summary

This is a case about a mistaken identification that resulted in an innocent man—Mr. Joseph Webster—being convicted of a murder that he did not commit. The one and only witness who has ever identified Mr. Webster as the perpetrator of this murder has since recanted her prior testimony under oath three (3) separate times. Even at Mr. Webster's trial, however—which occurred nearly eight years after the murder took place—this lone eyewitness's identification of Mr. Webster suffered from serious inaccuracies, gross inconsistencies, and myriad credibility concerns that suggest it was mistaken. Importantly, after Mr. Webster was convicted, three members of his family also came forward and testified that his brother—who resembles Mr. Webster—had privately confessed to them that he was the real killer. Crucially, no direct evidence has ever connected Mr. Webster to this crime, and he has steadfastly maintained his innocence for nineteen years. Of special significance, a vast amount of evidence gathered from the crime scene—including the murder weapon—also has never before been tested for DNA.

Regrettably, any neutral evaluation of Mr. Webster's case also compels the conclusion that the investigation into Leroy Owens's murder was seriously deficient. For example, a second apparent eyewitness to the murder—Ms. Lakeeta Smith—was seemingly never asked to attempt an identification. The perpetrators' pager number—which could have proven conclusively who the killer was—also was never determined, even though multiple witnesses stated that the perpetrators had given it to them. It is also undisputed that there were two perpetrators involved in Mr. Owens' murder, but the identity of the second perpetrator still remains unknown. Perhaps most importantly, however, neither the murder weapon, nor a cigarette pack that was found at the crime scene, nor the victim's shirt with visible blood stains on it has ever been tested for DNA.



Significantly, the second person involved in the murder of Leroy Owens also has never been identified. Thus, even if the accuracy of Mr. Webster's conviction were not plagued by such serious doubt, the fact that Mr. Owens' murder remains a cold case as to his second killer provides an independent basis for reopening this investigation. Based on the profound uncertainty about the accuracy of his conviction, however, Mr. Webster requests—at a minimum—the following:

1. That this office conduct a Y-STR forensic DNA analysis of the murder weapon, the cigarette pack found at the scene, and the victim's "white shirt with some blood" on it, none of which have ever been tested for DNA;
2. That this office re-interview Lakeeta Smith—a second eyewitness to the crime who was never asked to make an identification—for the purpose of having her attempt to identify Mr. Owens's killers; and
3. That this office re-interview Tammy Nelson for the purpose of evaluating whether her original identifications of Mr. Webster or her subsequent identifications of Mr. Webster's brother are more reliable.

## II. Case History

### A. Summary of Murder

On November 22, 1998, Leroy Owens was murdered by two African American males.<sup>1</sup> The two perpetrators assaulted Mr. Owens outside Tammy Nelson's apartment, chased him down the street, and ultimately killed him by striking him in the head with a cinder block.<sup>2</sup> The apparent motive for the murder was that Mr. Owens owed the perpetrators money from a prior drug sale.<sup>3</sup>

Prior to the murder, the two perpetrators came around Tammy Nelson's apartment in search of Mr. Owens "about five or six times."<sup>4</sup> Ms. Nelson and Mr. Owens were friends,

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<sup>1</sup> Multiple witnesses testified that the perpetrators were black males. *See, e.g.*, Fred McClain trial testimony p. 15, Delunn Hyde trial testimony p. 48.

<sup>2</sup> Fred McClain trial testimony, pp. 18-19.

<sup>3</sup> Fred McClain trial testimony, p. 19.

<sup>4</sup> Tammy Nelson trial testimony, pp. 193 and 254.

and they did drugs together.<sup>5</sup> The perpetrators stated that they were Mr. Owens' "cousins," but they apparently did not tell Ms. Nelson why they were looking for him.<sup>6</sup> The perpetrators also left their pager number with Ms. Nelson and other individuals in the area with instructions to page them if Mr. Owens ever came back around.<sup>7</sup>

On November 21, 1998, Mr. Owens returned to Ms. Nelson's apartment. Thereafter—either that evening or the following morning (it is not clear which, because Ms. Nelson gave conflicting statements on the matter<sup>8</sup>)—Ms. Nelson paged the perpetrators to alert them that Mr. Owens had returned.<sup>9</sup> Shortly after 11:00 a.m. on November 22, 1998, the perpetrators arrived at Ms. Nelson's unit and asked to see Mr. Owens. After Mr. Owens came outside to meet them, the perpetrators assaulted him in view of Ms. Nelson<sup>10</sup> using a stick that they had either brought with them or that they took from Ms. Nelson herself.<sup>11</sup> At least one other eyewitness—Ms. Lakeeta Smith—witnessed this initial assault as well.<sup>12</sup>

After Mr. Owens was assaulted outside Tammy Nelson's house, he attempted to escape by running away. Mr. Owens initially did escape by running inside a house owned by Mr. Delunn Hyde.<sup>13</sup> Mr. Hyde told Mr. Owens that he wanted no part of whatever was going on, however, so he instructed Mr. Owens to leave.<sup>14</sup> Mr. Hyde then escorted Mr.

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<sup>5</sup> Tammy Nelson First Interview with Bob Lyons, pp. 12-13.

<sup>6</sup> Tammy Nelson trial testimony, p. 196.

<sup>7</sup> Tammy Nelson trial testimony, pp. 193-94.

<sup>8</sup> *Compare* Tammy Nelson trial testimony, p. 198 (stating that she paged them "that morning" and "the same day that [Mr. Owens] got killed"), *with* Tammy Nelson First Interview, p. 9 (stating that the perpetrators arrived "the next morning" and that she "didn't call 'em that morning").

<sup>9</sup> Tammy Nelson trial testimony, p. 198.

<sup>10</sup> Tammy Nelson trial testimony, p. 201.

<sup>11</sup> *Compare* Tammy Nelson trial testimony, p. 201 ("He had a stick in his hand."), *with* Lakeeta Smith Interview with Pat Postiglione (March 5, 1999) ("they took a stick out of Tammy's hand and hit the victim with it.").

<sup>12</sup> Lakeeta Smith Interview with Pat Postiglione (March 5, 1999). *See also* Jeffery Bigsby Interview with Pat Postiglione (March 1, 1999) ("Jeffery states that his girlfriend was present").

<sup>13</sup> Delunn Hyde trial testimony pp. 45-46.

<sup>14</sup> Delunn Hyde trial testimony p. 46.

Owens out of his house. After Mr. Owens exited Mr. Hyde's house, the perpetrators' white, souped-up station wagon came speeding down the street in pursuit of him.<sup>15</sup> Mr. Hyde was only able to identify the occupants of the vehicle as two black males, and thus, he could not make an identification.<sup>16</sup>

After running Mr. Owens down in their white station wagon, the perpetrators "bum rushed" Mr. Owens, knocking him into a construction worker named Fred McClain. Mr. McClain then ran around the side of a nearby building, but he witnessed the events that followed.<sup>17</sup> According to Mr. McClain's testimony, the perpetrators knocked Mr. Owens down, and one of them began striking him in the head with a concrete cinder block.<sup>18</sup> The perpetrator with the cinder block also stated: "Where's my money? Where's my goddamn money?"<sup>19</sup> Mr. McClain was shown a photo lineup containing Mr. Webster shortly thereafter,<sup>20</sup> but he was unable to make an identification, either.<sup>21</sup>

Mr. Owens' death was ruled a homicide. The coroner concluded that his death was caused by the blunt force trauma of multiple cinder block strikes to the head. The coroner also observed several defensive wounds on Mr. Owens' hands,<sup>22</sup> suggesting that a struggle had taken place.

The cinder block that was used to kill Mr. Owens was retrieved from the crime scene. To this day, it remains covered in blood. Investigators also retrieved an empty pack of Salem cigarettes from the scene that may or may not have belonged to the

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<sup>15</sup> Delunn Hyde trial testimony pp. 47-48.

<sup>16</sup> Delunn Hyde trial testimony p. 48.

<sup>17</sup> Fred McClain trial testimony, pp. 13, 18, 19.

<sup>18</sup> Fred McClain trial testimony, p. 19.

<sup>19</sup> Fred McClain trial testimony, p. 19.

<sup>20</sup> Detective Postiglione trial testimony, p. 139.

<sup>21</sup> Fred McClain trial testimony, pp. 27, 29, 33. See also Detective Postiglione trial testimony, p. 139.

<sup>22</sup> See Medical Examiner trial testimony, pp. 303-304.



perpetrators as well,<sup>23</sup> and they recovered the victim's "white shirt with some blood on [it]."<sup>24</sup> None of these items has ever been tested for DNA.

### **B. Identification of Joseph Webster**

No direct evidence has ever connected Mr. Webster to Mr. Owens' murder, and at trial, Mr. Webster's defense was mistaken identity. Neither Mr. Hyde nor Mr. McClain was able to identify the perpetrators involved. Additionally, eyewitness Lakeeta Smith was never even asked to make an identification.<sup>25</sup>

Instead, Tammy Nelson—the crack cocaine addict who paged the perpetrators to let them know that Mr. Owens had returned to her apartment—provided the only identification that has ever been made in this case. Ms. Nelson identified Joseph Webster as having been one of the perpetrators involved in Mr. Owens' death after being shown a six-pack photo lineup provided by Detective Pat Postiglione. Ms. Nelson also stated that she had seen the individuals she selected up close "[a]bout five or six times"<sup>26</sup> prior to the murder. She further stated that she had always seen these individuals in the "afternoon"<sup>27</sup> and in the "daylight,"<sup>28</sup> with sufficient lighting that she "could actually see [their] face[s],"<sup>29</sup> and that there was never anything covering their faces.<sup>30</sup>

Mr. Webster was arrested and convicted for the murder of Mr. Owens almost entirely on the strength of Ms. Nelson's identification nearly eight years later.<sup>31</sup> Because

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<sup>23</sup> See Wayne Hughes trial testimony, p. 77.

<sup>24</sup> Officer James Jordan trial testimony, p. 37.

<sup>25</sup> Lakeeta Smith Interview with Pat Postiglione (March 5, 1999).

<sup>26</sup> Tammy Nelson trial testimony, p. 193 and 254.

<sup>27</sup> Tammy Nelson trial testimony, p. 194.

<sup>28</sup> Tammy Nelson trial testimony, p. 254 and 194.

<sup>29</sup> Tammy Nelson trial testimony, p. 194.

<sup>30</sup> Tammy Nelson trial testimony, p. 194.

<sup>31</sup> The only other evidence purporting to connect Mr. Webster to the crime was that a vehicle resembling the white station wagon involved in the crime was reportedly seen parked outside Mr. Webster's ex-wife's house the night before the murder. See Delunn Hyde trial testimony, p. 52. See also Joseph Dejuan Webster casefile investigative summary, p. 13 (BIO1MHK/P19R/VAUGMA02) ("[Hyde] states that he observed this

no additional evidence was gathered in the interim, however, it is not clear what accounted for the delay.

III. Three Family Members Come Forward and Testify that Mr. Webster's Brother Kenneth Neal Confessed to Killing Mr. Owens

Immediately after Mr. Webster was convicted at trial, three separate family members—Mr. Webster's mother, Marie Burns; his brother, Arthur Gordon; and his wife, Katrina Webster—came forward and signed sworn affidavits attesting that Mr. Webster's brother had privately confessed to being the real perpetrator.<sup>32</sup> These witnesses also provided sworn testimony as to the facts set forth in their affidavits during Mr. Webster's motion for a new trial.

In pertinent part, Ms. Burns swore that:

"My son, Kenneth Neal, told me that he committed this murder, but not to worry about it, as he had taken care of the problem and he felt that they could not prove that Joseph committed any murder. He also told me that him and Phillip Cotton had taken the white station wagon to the country to be destroyed."<sup>33</sup>

Similarly, Mr. Gordon swore that:

"My brother, Kenneth Neal, talked to me about the murder in this case, a short time after the incident actually happened.

Kenneth Neal admitted to me that he killed a man by hitting him with a brick. He told me this at his house, which at that time was off of Murfreesboro Road on Plus Park Blvd. It turns out that this is only a matter of minutes from where the crime took place.

He told me this after I had inquired about where his white station wagon had been. He then told me that he got rid of his white station wagon somewhere out of town.

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same white station wagon parked in front of a house on Lewis Street. . . . He states that he observed this vehicle parked there on 11/21/1998, the night prior to the homicide.").

<sup>32</sup> See Affidavit of Marie Burns; Affidavit of Arthur Gordon; and Affidavit of Katrina Webster.

<sup>33</sup> See Affidavit of Marie Burns, paragraph 8.

He also stated that he did not intend to kill the man.”<sup>34</sup>

Finally, Ms. Webster swore that:

“Once Joseph was indicted in this matter, Kenneth and I got into an argument because I told him that Joseph was in trouble for his charge. He got mad and stated that, ‘I needed to stay out of his business.’”<sup>35</sup>

#### IV. Serious Concerns about the Reliability of Ms. Nelson’s Identification

By all accounts, despite being a self-described crack cocaine addict,<sup>36</sup> Ms. Nelson made a strong trial witness. At trial, she also gave the appearance that she was certain that her identification was accurate,<sup>37</sup> despite previously stating that she “really couldn’t identify [the perpetrators] back then” and “just picked out a mug shot of guys that looked like them.”<sup>38</sup> Even before she came forward and recanted her trial testimony under oath three separate times, though, any neutral analysis of her initial identification of Mr. Webster reveals that it suffered from several significant and fatal flaws. Compounding these concerns, Ms. Nelson also lied repeatedly about multiple facets of this case, she was not a remotely trustworthy witness at any point, and she may well have been involved in the crime herself. In fact, one witness (who did not testify) told Detective Postiglione that “the victim was killed after he was set up by Tammy.”<sup>39</sup> A non-exhaustive list of concerns about the reliability of Ms. Nelson’s identification appears below.

##### **A. A glass or plastic eye that “goes up” and no gold teeth.**

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<sup>34</sup> See Affidavit of Arthur Gordon, paragraphs 4-6.

<sup>35</sup> See Affidavit of Katrina Webster, paragraph 8.

<sup>36</sup> Tammy Nelson Trial Testimony, pp. 184 & 258. See also Tammy Nelson Coram Nobis Testimony p. 12.

<sup>37</sup> Tammy Nelson trial testimony, p. 224.

<sup>38</sup> Tammy Nelson First Interview, p. 17.

<sup>39</sup> Jeffery Bigsby Interview with Pat Postiglione (March 1, 1999).



Ms. Nelson's recollection of the perpetrator's distinguishing facial features was both provably and materially inaccurate. First, she testified that the perpetrator had a distinguishing feature that Mr. Webster most certainly does not—an eye deformity that caused one of his eyes to “go up,” which may have been attributable to “glass or plastic or something on his eye.”<sup>40</sup> Mr. Webster does not have any eye deformity, and he most certainly does not have a glass or plastic eye.

Most importantly, though, Tammy Nelson stated unequivocally that Mr. Webster did not have gold teeth, and she further stated that she would “sure remember gold” if he did.<sup>41</sup> She also never mentioned gold teeth at any point throughout the investigation to anyone involved in it. Ms. Nelson also stuck to this description at trial by identifying only one of the perpetrator's eyes as having been a memorable facial feature—making no mention of gold teeth whatsoever.<sup>42</sup> Crucially, however, long before the murder took place, Mr. Webster had twelve extraordinarily prominent, bright yellow gold teeth permanently implanted that looked like—and still look like—this:



<sup>40</sup> Tammy Nelson trial testimony, p. 255.

<sup>41</sup> Tammy Nelson Second Interview, p. 6. See also Lyons Post-Conviction testimony, p. 18-19.

<sup>42</sup> Tammy Nelson trial testimony, p. 255.



**B. Serious conflicts between Ms. Nelson's own prior statements and her trial statements, and additional conflicts with other witnesses' accounts.**

In addition to conflicting with several other witnesses' accounts, Ms. Nelson's trial testimony also differed materially from her own prior statements in several respects. In some cases, it is not clear whether these inconsistencies were mere memory lapses or innocent mistakes. In other cases, however, it is clear that Ms. Nelson either lied before trial or that she lied during trial.

Most significantly, just before Mr. Webster's trial, Ms. Nelson stated the following during a recorded interview with Mr. Webster's investigator—former MNPD officer Bob Lyons:

Lyons: "[H]ad these two people [that you identified] walked in right now and you looked at 'em, could you identify these people if you wanted to?"

Nelson: "**No.**"

Lyons: "It's been that long?"

Nelson: "**I couldn't identify them. I really couldn't identify them back then.**"

Lyons: "You couldn't identify them back then, is that what you said?"

Nelson: "**I really couldn't identify them back then. I just picked out a mug shot of guys that looked like them. I don't know. Just big guys, big black guys.**"<sup>43</sup>

Ms. Nelson further stated: "[The police] showed me some mug shots and it was two fat boys that I picked out. I don't know the guys. **I couldn't be accurate on it.**"<sup>44</sup>

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<sup>43</sup> Tammy Nelson First Interview, p. 10 (emphasis added).

<sup>44</sup> Tammy Nelson First Interview, p. 17 (emphasis added).

Just a short time later, however, during Mr. Webster's trial itself, Ms. Nelson's recollection changed dramatically, and she testified that her identification was and had always been ironclad. On direct examination, Ms. Nelson was asked if she had "any doubt whatsoever that the person" she picked out was the defendant sitting in the courtroom.<sup>45</sup> Ms. Nelson answered: "I know that's the person. That's the person I picked out. He still looks the same right [here] today."<sup>46</sup> She further testified: "I told [Detective Postiglione] when I picked out number five, Joseph Webster, that I knowed that was him. And then the other guy that I picked out I was sure, for sure that was the other guy that was with him."<sup>47</sup> Of note, it is not clear from the record who "the other guy" that Ms. Nelson identified was, and no other individual has ever been charged in connection with this case.

Other discrepancies were similarly deliberate. For example, when asked if she had witnessed the initial assault that took place at her apartment before the murder, Ms. Nelson told Mr. Webster's investigator that "didn't see any assault" and "didn't see nothing. None of that."<sup>48</sup> She also said that she hadn't witnessed any "yelling or screaming."<sup>49</sup> At trial, however, Ms. Nelson offered a vivid and detailed account of her personal recollection of the initial assault, and she even claimed to have tried to intervene to stop it.<sup>50</sup>

There are also several details of Ms. Nelson's account that conflict with the testimony of other witnesses who were interviewed by detectives in this case. For instance, when describing the initial assault that took place, Ms. Nelson testified that Mr.

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<sup>45</sup> Tammy Nelson trial testimony, p. 224.

<sup>46</sup> Tammy Nelson trial testimony, p. 224.

<sup>47</sup> Tammy Nelson trial testimony, p. 253.

<sup>48</sup> Tammy Nelson Second Interview, p. 4.

<sup>49</sup> Tammy Nelson Second Interview, p. 5.

<sup>50</sup> Tammy Nelson trial testimony, pp. 201-203.

Webster “had a stick in his hand” when he initially approached the victim.<sup>51</sup> However, Lakeeta Smith—a second eyewitness who was not called at trial—gave a markedly different account. In her interview with Detective Postiglione, Ms. Smith stated that the perpetrators “took a stick out of Tammy’s hand and hit the victim with it”<sup>52</sup>—suggesting that Ms. Nelson may herself have been involved in the perpetration of the crime. This theory was also supported by Jeffery Bigsby—another witness who did not testify at trial—who stated that the victim was killed “after he was set up by Tammy.”<sup>53</sup>

Other discrepancies may well have been innocent, but still demonstrate Ms. Nelson’s unreliability. For example, Ms. Nelson testified at trial that she “paged [the perpetrators] that day, the same day that [Mr. Owens] got killed,” and she further specified that she paged them “that morning.”<sup>54</sup> She also testified that the victim “was asleep” at her house at the time she paged the perpetrators, and that she “went and woke [him] up” after she paged them. In sharp contrast, however, during her recorded interview with Mr. Webster’s investigator, Ms. Nelson stated that she “didn’t call ‘em that morning,” that the perpetrators arrived “the next morning” after she paged them, and that the victim was not “at [her] house at the time [she] called them.”<sup>55</sup> Ms. Nelson also stated both that she had “sold drugs in the past”<sup>56</sup> and that she “ain’t never sold no dope.”<sup>57</sup> These statements simply cannot be reconciled with one another, and they, too, seriously undermine Ms. Nelson’s credibility.

**C. Ms. Nelson concealed her involvement in the victim’s murder and actively obstructed the investigation into it.**

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<sup>51</sup> Tammy Nelson trial testimony, p. 201.

<sup>52</sup> See Lakeeta Smith Interview with Pat Postiglione (March 5, 1999) (emphasis added).

<sup>53</sup> Jeffery Bigsby Interview with Pat Postiglione (March 1, 1999).

<sup>54</sup> Tammy Nelson trial testimony, p. 198.

<sup>55</sup> Tammy Nelson First Interview, p. 9.

<sup>56</sup> Tammy Nelson trial testimony, p. 189.

<sup>57</sup> Tammy Nelson First Interview, p. 13.



Ms. Nelson's credibility was also subject to serious doubt because she deliberately concealed her involvement in Mr. Owens' death for seven-and-a-half months after his murder and actively obstructed the investigation into it. As indicated previously, Ms. Nelson herself was personally responsible for paging the perpetrators before they came to murder Mr. Owens<sup>58</sup>—something that could reasonably cause someone to question whether she had been involved in it herself. Of special note, the pager number that Ms. Nelson used to reach the perpetrators could also have been traced to its owner and definitively identified Mr. Owens' killer if the number had been given to detectives to trace. This lead was never effectively pursued, however, because Ms. Nelson successfully obstructed the investigation into Mr. Owens' death by concealing her involvement in his murder and destroying evidence related to it.

First, despite giving multiple interviews about Mr. Owens' slaying, Ms. Nelson failed to mention either that she was in possession of the perpetrators' pager number or that she had been the one who paged them until fully "seven and a half months after the fact"<sup>59</sup>—and only then after being confronted with evidence on this point gleaned from another source.<sup>60</sup> In fact, when first interviewed by Detective Postiglione, Ms. Nelson "denied any knowledge of even knowing the victim initially."<sup>61</sup> Ms. Nelson did not come clean about the pager until after Detective Postiglione "told her that [he] had information she was involved in this."<sup>62</sup>

According to Detective Postiglione himself, Ms. Nelson's failure to come forward with the fact that she had paged the perpetrators until seven-and-a-half-months after the

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<sup>58</sup> Tammy Nelson trial testimony, p. 198.

<sup>59</sup> Detective Postiglione trial testimony, p. 384.

<sup>60</sup> Detective Postiglione trial testimony, p. 401.

<sup>61</sup> Detective Postiglione trial testimony, p. 140.

<sup>62</sup> Detective Postiglione trial testimony, p. 401.

fact also materially undermined the investigation into Mr. Owens' murder. After Ms. Nelson finally came clean about having paged the perpetrators, for example, Detective Postiglione testified that the investigating officers returned to the complex where Ms. Nelson had lived in the hopes of tracing the phone call that she made to the perpetrators' pager. Upon doing so, however, Detective Postiglione stated that:

“When we went back to check there was no way to go back and just check the phone numbers. Otherwise, clearly that would have been something for obvious reasons we would have been interested in. . . . [W]e went back to those particular addresses and most of them were actually boarded up when we went back there in 1999.”<sup>63</sup>

The fact that Ms. Nelson's outgoing phone call was no longer traceable would not have been so significant if the records from the pager itself had been traced, however. Significantly, though, Ms. Nelson also tore up the piece of paper containing the perpetrator's pager number, preventing detectives from tracing it.<sup>64</sup> Ms. Nelson alternately attempted to explain her behavior at trial by testifying: (1) that she “didn't know it was evidence” when she tore it up,<sup>65</sup> (2) that she tore it up because she “was scared back then,”<sup>66</sup> and (3) that, perhaps, she actually didn't tear it up after all.<sup>67</sup> “That's what I told him [referring to Detective Postiglione]. But I can't remember [if I tore it up or not],” she stated.<sup>68</sup>

It goes without saying that these nakedly self-serving and mutually conflicting explanations for having destroyed potentially outcome-determinative evidence cannot be

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<sup>63</sup> Detective Postiglione trial testimony, p. 387.

<sup>64</sup> Tammy Nelson trial testimony, p. 242.

<sup>65</sup> Tammy Nelson trial testimony, p. 242.

<sup>66</sup> Tammy Nelson trial testimony, p. 243.

<sup>67</sup> Tammy Nelson trial testimony, p. 242.

<sup>68</sup> Tammy Nelson trial testimony, p. 242.

deemed credible—especially in light of the fact that Ms. Nelson deliberately misled detectives about having paged the perpetrators in the first place.<sup>69</sup>

**D. Ms. Nelson's Three Sworn Recantations**

A further, equally serious reason to doubt the accuracy of Ms. Nelson's identification is that she has recanted it three separate times—all under oath—since Mr. Webster was convicted. In two of those instances, she has also identified Mr. Webster's brother as the actual perpetrator.

First, on January 21<sup>st</sup>, 2009, Ms. Nelson handwrote, swore to, and signed the following statement in her own words:

“January 21, 2009

I Tammi Terrell Nelson is writing this statement to let the state know that I was mistaken identified Joseph Webster as his brother Kenny Neal in court and its been weighing heavily on my heart to where I've been put on medication for stress and having terrible dreams. I'm a 39 yr old mother with 2 grandchildren. During the time of this trial I was pressure into testified because of my addiction therefore this is my written statement.

Tammi Nelson  
1-21-2009”<sup>70</sup>

Second, on February 7<sup>th</sup>, 2014, Ms. Nelson swore to and signed the following typewritten statement, which had been prepared for her after she provided an oral statement to a notary:

“I Tammie Terrell Nelson, being of sound mind and body, and under no threat of bodily harm, do hereby make and sign the following affidavit under penalty of perjury:

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<sup>69</sup> Detective Postiglione trial testimony, p. 384.

<sup>70</sup> Tammy Nelson Sworn Recantation #1, January 21, 2009.



In March of 2006 I falsely testified for the state of Tennessee in the murder trial of Joseph D. Webster. At the time of the trial, I was serving time on charges of drug possession, prostitution, and violation of probation. I was also addicted to crack cocaine. Taking advantage of my addiction and desire to get out of jail, district attorney Pamela Anderson offered me a deal to testify against Mr. Webster and help to secure his conviction. In return, I would be sentenced to Davidson County Drug Court instead of prison; upon my completion of this program I would be returned to the streets. I agreed to this deal and it has haunted my conscience since. The truth of the matter is that I DID NOT witness Joseph D. Webster harm anyone and I only said so because of the deal placed before me. And let me be clear by stating that this deal WAS in place long before Mr. Webster's trial.

Again, I am not under duress whatsoever nor have I been threatened by anyone to sign this affidavit nor have I been offered any monetary gains or anything otherwise. My conscience has been eating away at me and this is just the right thing to do. Mr. Webster is innocent of the crime that he is in prison for, and I need to right this wrong that I helped to cause. I pray that this helps. Thank you.

Tammy Terrell Nelson”<sup>71</sup>

Third, providing in-court testimony on October 10, 2014, Ms. Nelson testified repeatedly that she had wrongly identified Mr. Webster as the perpetrator, and she further testified that she realized that she had made the error after seeing a photo of Mr. Webster's brother for the first time. For example, after being asked why she was sure her identification of Mr. Webster was mistaken, Ms. Nelson testified:

“The reason, I saw a picture of—a picture of another person, his brother. And I was like – you know, when I saw the picture, I just broke down crying because I thought all these years, and then about me being in my right mind and not on the drugs like I used to be on that had me all confused. And I know now that it wasn't – it wasn't Joseph.”<sup>72</sup>

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<sup>71</sup> Tammy Nelson Sworn Recantation #2, February 7, 2014.

<sup>72</sup> Tammy Nelson Coram Nobis Testimony, pp. 6-7.



**E. Ms. Nelson's inconsistent statements under oath about receiving a deal in exchange for testifying against Joseph Webster.**

Ms. Nelson has also given multiple conflicting statements under oath about having received a deal in this case in exchange for her testimony, which also significantly undermines her credibility. Of note, if such a deal existed, it has never been disclosed to the defense, and the prosecution would have been constitutionally obligated to disclose it.

At trial, Ms. Nelson testified repeatedly and without equivocation that she had not received any assistance or promise of assistance from the prosecution in exchange for her testimony.<sup>73</sup> On January 21, 2009, however, Ms. Nelson signed a handwritten, sworn statement that: "During the time of this trial I was pressure [sic] into testified [sic] because of my addiction . . . ." <sup>74</sup> On February 7, 2014, Ms. Nelson also signed a second, sworn statement that:

"Taking advantage of my addiction and desire to get out of jail, district attorney Pamela Anderson offered me a deal to testify against Mr. Webster and help to secure his conviction. In return, I would be sentenced to Davidson County Drug Court instead of prison; upon my completion of this program I would be returned to the streets. I agreed to this deal and it has haunted my conscience since. The truth of the matter is that I DID NOT witness Joseph D. Webster harm anyone and I only said so because of the deal placed before me. And let me be clear by stating that this deal WAS in place long before Mr. Webster's trial."<sup>75</sup>

While testifying during Mr. Webster's coram nobis proceeding in October 10, 2014, however, Ms. Nelson then reverted back to her original position. Specifically, she stated

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<sup>73</sup> Tammy Nelson trial testimony, p. 184.

<sup>74</sup> Tammy Nelson Sworn Recantation #1, January 21, 2009.

<sup>75</sup> Tammy Nelson Sworn Recantation #2, February 7, 2014.

that she did not expect any favorable treatment for testifying against Mr. Webster,<sup>76</sup> that she signed her February 2014 statement “not knowing that [she] was signing it,”<sup>77</sup> and that the statement she gave orally to the notary was “totally different” from the one that she signed that day.<sup>78</sup> Ms. Nelson further testified that she “never saw this woman [District Attorney Pamela Anderson] a day in my life.”<sup>79</sup>

Pamela Anderson was, of course, the lead District Attorney on the Webster case. In that capacity, she cross examined Ms. Nelson for approximately two hours during Mr. Webster’s trial, so Ms. Nelson certainly had seen her before.<sup>80</sup> Consequently, like Ms. Nelson’s other statements and inconsistent testimony throughout this case, it is never quite clear if she is lying or if her memory is just extraordinarily unreliable as a consequence of her decade-long addiction to crack cocaine.

For what it’s worth, Ms. Nelson did avoid jail time and was placed in community corrections after testifying against Joseph Webster.<sup>81</sup> Other than her sworn statements on January 21, 2009 and February 7, 2014 that she was pressured into testifying by the State and received a deal in exchange for her testimony, however—statements that, as noted, Ms. Nelson also repudiated under oath both before and after giving them—there is no indication that Ms. Nelson avoided jail time in exchange for her testimony.

## V. Opportunities for Further Investigation

### A. Y-STR DNA Testing

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<sup>76</sup> Tammy Nelson Coram Nobis Testimony, p. 14. *See also* Tammy Nelson Coram Nobis Testimony, p. 42-45.

<sup>77</sup> Tammy Nelson Coram Nobis Testimony, p. 17.

<sup>78</sup> Tammy Nelson Coram Nobis Testimony, p. 39.

<sup>79</sup> Tammy Nelson Coram Nobis Testimony, p. 17.

<sup>80</sup> Tammy Nelson Coram Nobis Testimony, p. 34.

<sup>81</sup> Tammy Nelson Coram Nobis Testimony, p. 32.

Neither the murder weapon (the cinder block), nor fragments of it recovered from the crime scene, nor an empty cigarette pack found at the crime scene, nor the victim's blood-stained white shirt has ever been tested for DNA evidence. This omission is also especially significant in light of several defensive wounds found on the victim's hands<sup>82</sup> that indicate the possibility that the victim may have drawn his perpetrators' blood during their confrontation. Of note, at Mr. Webster's trial, Detective Wayne Hughes also testified that "the blood stains [would] possibly be good evidence."<sup>83</sup> In response to questioning about whether "the assailant's blood might be on there," Detective Hughes further testified that "I don't have any idea whose blood it is," and thus, "anything's possible."<sup>84</sup>

Consequently, Mr. Webster respectfully requests a Y-STR DNA analysis<sup>85</sup> of all remaining physical evidence from the crime scene that may definitively indicate that his brother Kenneth Neal was the real perpetrator.

### **B. Lakeeta Smith—Second Eyewitness**

At least one other eyewitness—Ms. Lakeeta Smith—witnessed the assault as well. During her interview with Detective Pat Postiglione, Lakeeta Smith told Detective Postiglione that "she was present at 169 Old Hermitage Avenue when the two suspects came by and confronted the victim."<sup>86</sup> Although Ms. Smith provides a description of the suspects, there is no indication in Detective Postiglione's report that Ms. Smith was ever shown a photo lineup or asked to make an identification in this case. Consequently, Mr.

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<sup>82</sup> See Medical Examiner trial testimony, pp. 303-304.

<sup>83</sup> See Wayne Hughes trial testimony, p. 89.

<sup>84</sup> See Wayne Hughes trial testimony, p. 90.

<sup>85</sup> Y-STR testing involves DNA analysis of the Y chromosome and can distinguish between individuals who have different fathers. Crucially, Mr. Webster and Mr. Neal have the same mother, but different fathers.

<sup>86</sup> Lakeeta Smith Interview with Pat Postiglione (March 5, 1999).



Webster requests that Ms. Smith be located, re-interviewed, and asked to attempt an identification of the perpetrators.

### **C. Pager/Re-Interviewing Ms. Nelson**

Tammy Nelson testified that the perpetrators gave their pager number out to multiple people,<sup>87</sup> including “a girl named Tasha Odom” and “[a]nother girl we used to call Big Shanda.”<sup>88</sup> Before Mr. Webster’s trial, Ms. Nelson also told Mr. Webster’s investigator that “[w]hen they gave me the phone number - this girl . . . we used to call her Shorty – that’s another witness. We went two doors down and I called.”<sup>89</sup> In total, Ms. Nelson testified that “about three or four other people” were at her house when the perpetrators distributed their pager number.<sup>90</sup> It is not clear who these individuals are or whether any of them was ever interviewed prior to Mr. Webster’s trial. However, because Tammy Nelson “told Detective Postiglione about those names” while the investigation was underway, they should be contained somewhere in the case file.<sup>91</sup> With this and other discrepancies in her testimony in mind, this office should also re-interview Ms. Nelson for the purpose of evaluating whether her original identification of Mr. Webster or her subsequent identifications of Mr. Webster’s brother is more reliable.

### **Conclusion**

For the foregoing reasons, the investigation into Mr. Leroy Owens’ murder should be reopened, and further investigation should be conducted in accordance with the specific requests set forth above.

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<sup>87</sup> Tammy Nelson trial testimony, p. 194.

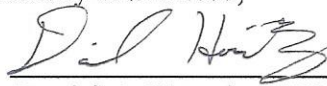
<sup>88</sup> Tammy Nelson trial testimony, p. 225.

<sup>89</sup> Tammy Nelson First Interview, p. 12.

<sup>90</sup> Tammy Nelson trial testimony, p. 218.

<sup>91</sup> Tammy Nelson trial testimony, p. 226.

Respectfully submitted,

By:   
Daniel A. Horwitz, BPR #032176  
1803 Broadway, Suite #531  
Nashville, TN 37203  
daniel.a.horwitz@gmail.com  
(615) 739-2888

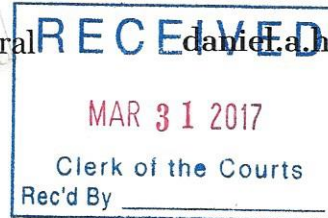
*Counsel for Defendant Joseph Webster*

# Exhibit B

1803 Broadway, Suite #531  
Nashville, TN 37203  
(615) 739-2888

daniel.a.horwitz@gmail.com

Office of the Davidson County District Attorney General  
Assistant District Attorney General Robert Jones  
Washington Square, Suite 500  
222 2nd Avenue North  
Nashville, TN 37201



3/30/2017

**Re: Agreement on DNA Testing in Davidson County Case No. 2005-B-1384**

Dear General Jones:

This letter is to confirm that the Davidson County District Attorney's Office has agreed to allow post-conviction DNA testing to proceed in the above-referenced case. The Defendant, Mr. Joseph Webster, has filed a petition for DNA testing pursuant to the Post-Conviction DNA Analysis Act of 2001, Tenn. Code Ann. § 40-30-301, *et seq.* I represent Mr. Webster, whose petition for DNA testing is currently pending before the Tennessee Court of Criminal Appeals in Case M2016-02309-CCA-R3-PC. I have agreed to dismiss Mr. Webster's appeal once an order providing for the release of the evidence to be tested for DNA has been executed. The Innocence Project is also assisting in Mr. Webster's representation. An agreed order effectuating this agreement is attached hereto as Appendix A.

DNA testing has never previously been conducted in this case, and at this juncture, both parties have determined that conducting DNA testing is appropriate. Accordingly, the parties are in agreement that forensic DNA testing—including Y-STR testing—shall be conducted on: the murder weapon (cinder block) used to kill the victim in this case; the victim's blood-stained shirt; and the Salem cigarette pack found at the crime scene. The testing shall be conducted by the Bode Cellmark Forensics Laboratory ("Bode"), and the costs of the testing shall be borne by Joseph Webster and the Innocence Project.

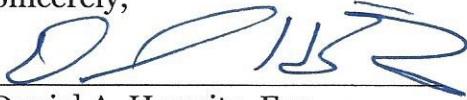
The parties agree that, in the event that a DNA profile suitable for comparison is obtained from the evidence to be tested, a reference sample in the form of a buccal swab shall be collected from Mr. Webster, and Bode shall develop the DNA profile of Mr. Webster from his buccal swab for purposes of comparison. Bode shall take necessary steps to ensure that all applicable DNA testing results may be compared to the CODIS database. All eligible DNA results shall be compared to federal, state, and local DNA databases. The results of any testing in this case shall be published in a report simultaneously provided to both parties.

In consenting to allow the above-described testing to be performed, Mr. Webster recognizes that the State does not concede—and presently takes no position on—the significance (or lack thereof) of any DNA results which may be obtained in the course of this testing with respect to the instant case.

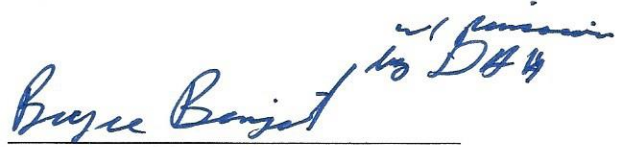


I thank you for your courtesy and look forward to working with you as this matter proceeds. If the terms of this letter agreement and the accompanying proposed order are acceptable to you, please sign both this agreement and the approval line of the attached Agreed Order and kindly return a copy to me at your convenience.

Sincerely,



Daniel A. Horwitz, Esq.  
*Counsel for Defendant Joseph Webster*



Bryce Benjet, Esq.  
*Innocence Project*

Approved for agreement on March 30, 2017 by:



Robert Jones, Esq.  
*Assistant District Attorney*  
*Office of the Davidson County District Attorney General*

# Appendix A

**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE, DIVISION I**

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**JOSEPH WEBSTER,**

***Petitioner,***

**v.**

**STATE OF TENNESSEE,**

***Respondent.***

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**Case No. 2005-B-1384  
Post-Conviction-DNA**

**Judge Steve R. Dozier**

FILED  
2017 MAR 31 AM 9:38  
CRIMINAL COURT CLERK  
DOCC

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**AGREED ORDER FOR RELEASE OF EVIDENCE FOR DNA TESTING**

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Upon agreement of the parties, the Court hereby ORDERS the release of the following evidence, collected during the investigation of the above-styled case, within fifteen (15) days of this Order as set out below:

**Description of Evidence To Be Released for DNA Testing**

1. The cinder block, and any fragments thereof, previously determined to have been the murder weapon used to kill Mr. Leroy Owens, the victim in the above-styled case;
2. The blood-stained shirt worn by Leroy Owens at the time of his death; and
3. The Salem cigarette pack retrieved from the scene of Leroy Owens' murder.

**Transfer of Evidence To Be Tested**

A third-party agent to be selected at a later date upon mutual agreement of the parties shall transfer the above-described evidence from the custody of the Metro Nashville Police Department to the Bode Cellmark Forensics Laboratory, 10430 Furnace

Road, Suite 107, Lorton, VA 22079, maintaining a proper chain of custody, for DNA testing as agreed upon by the parties.

**Return of Evidence To Be Tested**

Once DNA testing of the above-described evidence has been completed, the laboratory shall return any remaining samples from the evidence to the custody of the Metro Nashville Police Department, maintaining proper chain of custody.

ENTERED this the \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Judge

**AGREED TO BY:**



Daniel A. Horwitz, Esq.  
*Counsel for Defendant Joseph Webster*

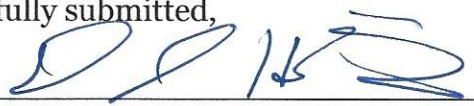


Robert Jones, Esq.  
*Assistant District Attorney  
Office of the Davidson County District Attorney General*



Respectfully submitted,

By:


  
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Nashville, TN 37203  
daniel.a.horwitz@gmail.com  
(615) 739-2888

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31<sup>st</sup> day of March, 2017, a true and exact copy of the foregoing was hand-delivered via the Criminal Court Clerk's drop box to:

Robert Jones, Esq.  
Assistant District Attorney  
Office of the District Attorney General  
Washington Square Building, 5<sup>th</sup> Floor  
222 2<sup>nd</sup> Avenue North, Suite 500  
Nashville, TN 37201-1649

By:

  
Daniel A. Horwitz, Esq.