

IN THE SUPERIOR COURT OF FLOYD COUNTY
STATE OF GEORGIA


Barbara H. Penson, Clerk
Floyd County, Georgia

State of Georgia,)
)
Plaintiff)
)
v.)
)
Cain J. Storey and)
Darrell Lee Clark,)
)
Defendants.)

Case No. 97-CR-6320A-3

EXTRAORDINARY MOTION FOR NEW TRIAL

Defendant Darrell Lee Clark files this motion through undersigned counsel, seeking a new trial pursuant to O.C.G.A. § 5-5-41 and supporting caselaw.

INTRODUCTION

Newly discovered evidence establishes that the primary evidence presented by the State at Clark’s trial for the 1996 shooting death of Brian Bowling, leading to his conviction for murder and conspiracy to commit murder, is false.

The State’s case against Clark was built upon two key witnesses: (1) a hearing and speech-impaired man present at the scene when Bowling was shot, who months later was believed to have identified Clark as a boy he had seen running through the Bowling’s front yard immediately after the shooting occurred, and (2) a woman who hosted a party at a nearby trailer park months after the shooting who claimed that Storey described how he and Clark killed Bowling, that he did so in Clark’s presence, and that Clark said he was there but did not shoot Bowling. In late 2021, however, Clark discovered for the first time facts that wholly undermine

the testimony of both of these critical witnesses—and effectively eviscerate the basis for his conviction.

First, through the independent investigation of two podcast journalists, Clark learned that the hearing and speech-impaired man, Charlie Childers, witnessed an unrelated, factually similar shooting in 1976 and that he is unable to effectively separate the facts of that case from the circumstances surrounding Bowling's 1996 shooting. Clark additionally learned that Childers never identified Clark as having run through the Bowling's yard when Bowling was shot, as he had never observed *any* boy outside; a fact that breaks Clark's connection to the shooting almost entirely.

Second, Clark also discovered through the podcasters' investigation that the party host, Angela Bruce, was coerced into giving false statements and testimony regarding the remarks Storey and Clark purportedly made by threats from police that they would take her children from her if she failed to comply with their demands. Clark also recently learned that this plan by police to force her incriminating testimony was shared with the Bowling family. This new information establishes the truth in what Clark and his co-defendant have always maintained: neither of them ever made any statements to Bruce (or anyone else) about killing Brian Bowling.

The newly discovered evidence supporting Clark's claims herein causes the pillars of the State's case against him to crumble—and it strongly supports his claim of innocence.

FACTUAL BACKGROUND

Brian Bowling's Death

At approximately 9:30pm on October 18, 1996, 15-year-old Brian Bowling sustained a single gunshot wound to the head while sitting on his bed in his family's mobile home. (T. 96,

99, 122, 177.)¹ When the shot rang out, Bowling was on the phone with his girlfriend. (T. 738, 791.) Just moments before, Bowling had told her that he was playing Russian Roulette with a gun brought over by his best friend, 17-year-old Cain Joshua Storey, who was present in the room when the shooting occurred. (T. 455, 913, 1108.) Despite the circumstances, which strongly indicated that Bowling accidentally shot himself in the head, at the urging of Bowling's family members, police later began investigating the death as a homicide. (T. 194.)

Immediately after witnessing the shooting, Storey made several statements to others present in the Bowling home: he said that Bowling shot himself; that he didn't mean for Bowling to die; and that he didn't mean to kill Bowling. (T. 744, 788-89.) Storey clarified that he felt responsible for Bowling's death since he had brought the gun over to the house. (T. 112.) During a later police interview, when he was told that the case could be put to rest if it was just an accident, Storey told the detective that he had accidentally shot Bowling. (T. 173; State's Ex. 3.) While police first believed Storey's account that the shooting was accidental, they still determined that a manslaughter charge against Storey was warranted. (T. 194.)

Seven months after Brian Bowling's death - police take statements from Angela Bruce and Charlie Childers

Angela Bruce lived in a different mobile home park not far from the Bowling's home.² (T. 1001.) Seven months after Bowling's death, police approached Bruce and asked if she knew anything about the Bowling shooting. (T. 1048-49, 1052.) In response, Bruce told police a story about Storey and Clark attending a party at her house a few months after the shooting. (T. 1001-03.) She said that Storey explained how he and Clark had planned the murder, using Bowling's

¹ Citations to the trial transcript will be cited as T. followed by the applicable page number.

² Angela Bruce has since remarried and now goes by Angela Swaney, however, to avoid confusion, this Motion refers to her only as Angela Bruce.

girlfriend as a distraction on the phone while Storey put a pillow over Bowling's head and shot him.³ (T. 1007-08.) Storey and Clark wanted to kill Bowling, Bruce said, because he knew too much about a prior theft that Storey and Clark had committed. (T. 1007.) Bruce said that Clark was there when Storey was giving the details of the crime and that he admitted to being present for Bowling's shooting, but stated that he did not shoot Bowling. (T. 1008-10.)

About ten days after police had their first interview with Angela Bruce, they upgraded the charges against Storey to murder and also pulled Clark into the case for the first time, arresting him as a co-conspirator. (T. 195.) Within three days of the arrests, police spoke to Charlie Childers—a hearing and speech-impaired man who'd been in the Bowlings' home when the shooting occurred—for the first time. (T. 197, 733.) Police claimed Childers identified Clark from a photo lineup as a boy he saw running through the Bowling's yard on the night of the shooting. (T. 504-05.) However, none of the other people present at the Bowling home on the night of the incident reported seeing anyone outside, nevermind Clark specifically.

Clark and Storey's Trial - January 1998

The State prosecuted Storey and Clark on the theory that the two had conspired to kill Bowling in an act of revenge after Bowling told police they were involved in stealing a safe that contained \$3,200 in cash—largely tracking Angela Bruce's statement about the confession she said Storey gave at her party. (T2. 84-86.)⁴ The conspiracy arose, the State said, from the rules of a gang called the "Free Birds," which called for death as the penalty for talking to police. (T2.

³ Police collected a pillow from Bowling's bedroom at some point although there are various conflicting accounts about when and how that happened. (T. 155-56, 216, 245.) Nevertheless, after being "lost" for a few months, the pillow was taken to the state crime lab for testing, which revealed that there was no gunpowder residue present—indicating that if a gun was fired in the vicinity of the pillow, it had to have been at least three feet away. (T. 395-96, 399-400.)

⁴ A citation to "T2" refers to the portion of the original trial transcript that was not transcribed until recently; this portion of the trial transcript was filed with the clerk's office on April 7, 2022.

84.) One major problem with this theory though was that before Bowling ever talked to police, Storey *himself* had already given authorities a statement incriminating both himself and Clark in the safe theft. (T. 445-47.)

At trial, Charlie Childers, who had a very difficult time communicating through the court interpreter—as he did not use American Sign Language or any other recognized signing system—continually mentioned *Storey's* name when describing who he had seen at the Bowling home on the night of the shooting. (T. 559, 560-65, 567, 570-75, 586-90, 597-602, 621-22, 624-25.) In contrast, when it came to Clark, Childers repeatedly testified that a person he described as “Darrell,” who the interpreter concluded Childers saw outside the Bowling’s home (T. 570-72), was not in the courtroom—despite the fact that Clark was, of course, sitting at defense counsel’s table. After Childers testified six times that “Darrell” was not in the courtroom (T. 573-74, 588-589, 590), the prosecutor walked over and physically stood behind Clark at the defense table (T. 591-92), and the interpreter concluded that Childers indicated the person the prosecutor was standing behind was the person he was talking about. (T. 592.) On cross examination, however, Childers described the person he saw as a “black boy” with “black hair” who had a wife. (T. 596-97.) Then-teenaged Clark, who has always been referred to by his middle name, “Lee,” is white, has brown hair, and has never been married. Moreover, Childers also testified on cross that he gave police information about Storey and that Childers “don’t know about Darrell.” (T. 601-02.)

Sergeant Dallas Battle also testified that he made contact with Charlie Childers and his brother Wayne Childers on May 26, 1997, after Wayne contacted Battle. (T. 518.) At that time, Battle said Wayne told police Charlie had seen a boy run through the front yard by a window at the Bowling’s home on the night of the shooting. (T. 518-20.) Battle testified that Charlie

Childers communicated with police through sign language to Wayne, who would then interpret.⁵ (T. 519.) After talking with the Childers, Battle testified that he went back to the police station to create a photo array and then returned to present it to Charlie. (T. 520, 522.) Battle said Charlie then identified Clark from the photo line-up as the person he had seen running outside the trailer, that he signed and completed a form stating as such, and that Charlie Childers was not coached in any way in providing the information.⁶ (T. 523-26.)

To support its theory of intentional homicide (versus an accidental, self-inflicted shooting), the State was forced to rely on the testimony of the coroner, who was not trained as a medical doctor, because there was never any autopsy performed on Bowling's body. (T. 146, 290-91.) The coroner opined that the gun was at least 12-18 inches from the Bowling's body when it was fired because there were no powder burns present. (T. 290-91, 297-98.) He explained away the black coloring seen in photos of Bowling's body as either bruising or a substance used to stop a wound from leaking. (T. 310-12.)

Despite the coroner's opinion, the majority of the medical and physical evidence presented at trial supported the defense theory that Bowling died from a self-inflicted gunshot wound. One medical doctor, a neurosurgeon called by the State, opined that the 45-degree angle of the bullet's path was unusual for a self-inflicted wound but that such an injury could not be ruled out. (T. 354-56.) In fact, he admitted that Bowling's injury was consistent with a self-

⁵ Wayne Childers testified that he could not communicate well with Charlie and that he relied upon lip reading and handwriting to converse with him, but that Charlie had to go through their mother for Wayne to understand his writings because Wayne is illiterate. (T. 541-43.)

⁶ Despite testifying that Battle had not given Childers any indication that the person he saw was in the line-up, his responses to defense counsel's cross-examination questions indicate otherwise. As noted by the Georgia Supreme Court on Clark's direct appeal, Battle "several times gave an affirmative response to defense counsel's questions that he told the witness and his brother that he 'would go fix a lineup with [appellant] Clark's picture in it, and ... bring it back and present it to them.' On re-direct and re-cross examination, the officer could not recall giving the brothers the name of anyone he was going to include in the lineup." *Clark v. State*, 271 Ga. 6, 13 (1999).

inflicted gunshot wound sustained during a game of Russian Roulette. (T. 360.) Additionally, a medical examiner that viewed photographs of Bowling's body identified the gunshot wound as a contact wound, which is also consistent with a self-inflicted gunshot wound. (T. 1313, 1333-34, 1336.) He did so based on the presence of red speckles, black coloration, charred flesh, gas pockets under the scalp tissue, an entrance wound larger than the exit wound, and the angle of the bullet's path. (T. 1327, 1329-30, 1336, 1353.) Further, when police collected swabs from Storey's hands to determine whether any gunshot residue was present, the lab determined that the samples were devoid of any gunshot residue. (T. 367-68, 372.)

At trial, Clark presented an alibi for the night of the shooting; he was at home and called two witnesses to support that fact. One of the witnesses dropped her son off at Clark's house around 8:30-8:45 that evening and the second witness, the woman's son, testified that he stayed with Clark at his house all night. (T. 1285-86, 1297-98.) The alibi was, of course, inconsistent with the State's allegation that Clark was present at the Bowling's trailer when the shooting occurred around 9:30pm.

After a week-long trial, the jury convicted Clark and Storey of murder and conspiracy to commit murder. (T. 1513.) Both were sentenced to life in prison with the possibility of parole. (Sent. T. 7.)⁷

Direct Appeal and State Habeas Corpus

Clark appealed his conviction to the Supreme Court of Georgia in early 1999. *Clark v. State*, 271 Ga. 6 (1999). The Court considered issues related to:⁸ (1) the coroner's lay opinion testimony about the condition of Bowling's body and the distance between the gun and

⁷ The sentencing transcript is cited as Sent. T. followed by the applicable page number.

⁸ Storey's case was considered simultaneously and Storey's counsel raised additional issues solely on his behalf that are not enumerated here.

Bowling's head when the shot was fired; (2) hearsay testimony from Bowling admitted through his brother-in-law; (3) an alleged "gang rulebook" that was not actually produced, but about which two witnesses gave substantive testimony related to its content; and (4) the reliability of the photo array shown to Charlie Childers and its impact on Childers' later implication of Clark. Of note, the Supreme Court found that the evidence set out in numbers (2) and (3) above was erroneously admitted, however, it deemed the errors harmless in light of Angela Bruce's testimony on the matters. *Id.* at 10-11. The Supreme Court ultimately affirmed Clark and Storey's convictions on April 12, 1999.

Clark filed a *pro se* state habeas petition in Tattnall County in 2002 (case no. 2002-HC-65). The petition was amended several times and transferred to Hancock County in 2006 (case no. 06-HC-0027). There was never a substantive hearing on Clark's petition and it was ultimately dismissed in 2016 without a ruling on the merits of the claims.

Newly discovered evidence

In late 2021, podcasters Susan Simpson and Jacinda Davis began interviewing witnesses related to Clark's case as part of a re-investigation of the circumstances of Brian Bowling's death. The podcasters interviewed both Charlie Childers and Angela Bruce, discovering information that was previously unknown to Clark or any of his prior counsel.

Charlie Childers

In late October 2021, the podcasters made contact with Charlie Childers for the first time. With knowledge of Childers' hearing and speech impairment, the podcasters sought out an interpreter with the ability to effectively communicate with Childers about what he saw on the night of Bowling's shooting, recognizing that Childers' unique communication style—as evidenced by his difficulties communicating with a certified ASL interpreter at trial—would

likely require the assistance of a qualified but disinterested person familiar to Childers.

Ultimately, they enlisted the help of Michael Burton, a retired teacher of Childers' from the Georgia School of the Deaf,⁹ to interpret for them.

With Burton's help, the podcasters interviewed Childers and soon discovered that he never saw Darrell Lee Clark outside of the Bowling's home on the night Brian was shot; that he never communicated to authorities that he had seen Clark on the night in question; and that, in fact, much of Childers' testimony at Clark's trial actually concerned a completely unrelated accidental shooting with strikingly similar facts that Childers witnessed first-hand at his own home in 1976.¹⁰

When the podcasters initially asked Childers questions about Brian Bowling's shooting, he answered by describing a boy, who he called "Brian," getting a gun out of a drawer and shooting himself in a room with two other boys. Childers said he saw the shooting happen, and that he had tried to stop it. The podcasters were confused by this information, as it did not match the circumstances of Brian Bowling's death at all—though Childers was using some names and details associated with Brian's shooting. Charlie Childers' brother, Wayne Childers, who was present for the interview, then informed the podcasters that Childers was describing a *different* shooting that he had mixed up with the shooting of Brian Bowling. Once the podcasters, through Burton, knew to ask more specific questions, Charlie Childers explained that there were two *separate* shootings: one that occurred at his own home and that he personally witnessed, in

⁹ Burton is fluent in American Sign Language and taught classes at the Georgia School for the Deaf in Cave Spring, Georgia for over twenty years before working as a professor at Georgia Highlands College in Rome, Georgia. While not state certified, Burton has been qualified to interpret for hearing-impaired witnesses in several Superior Courts throughout Georgia. Burton has interpreted on Childers' behalf on many occasions over the last 40+ years.

¹⁰ Ronnie Quarles died in 1976 at age 12 after sustaining a single gunshot wound to the head. He was shot at a mobile home in Silver Creek where the Childers family lived, very close to the Bowling's home. The death was investigated via a Coroner's Inquest and was determined to be an accidental shooting. Charlie Childers was in the room with Quarles when the shooting occurred.

which a boy he called “Brian” was shot, and one that occurred at the Bowling’s home that he did not see, involving a boy he called “Ricky’s brother.”¹¹

To ensure that Childers understood the podcasters were asking questions about the shooting of Brian Bowling, they showed Childers a photograph of Bowling and also took Childers to the mobile home that formerly belonged to the Bowling family, where the shooting occurred. This place was the site of “Ricky’s brother’s” shooting, Childers said, and not where the boy he referred to as “Brian” was shot; the boy he called “Brian” died at the Childers’ home and it was *that* shooting incident where Childers observed someone outside the window where the shooting took place. Childers told the podcasters that he was in the living room watching TV at the Bowling’s trailer when “Ricky’s brother” (Brian Bowling) shot himself, that he never saw any boy running through the yard after that shooting occurred, and that he never testified as such in court.

Undersigned counsel, again with the assistance of Burton, also spoke to Childers on August 23, 2022, at which time Childers still had difficulty detangling the facts of the two separate shootings, though he repeatedly iterated that he never saw a boy in the Bowling’s yard the night the boy was shot at the Bowling’s trailer, and that he never told police or testified that he did. Upon being shown photos of Darrell Lee Clark, Childers stated that he had never seen Clark at the Bowling’s trailer. However, he said the police had shown him a photo of Clark and told him that they had caught Clark, as he was outside the Bowling’s trailer when Brian was shot. Childers also said that someone told him Clark was involved in the shooting. But Childers thought Bowling shot himself. Childers did not know what Clark or Storey did wrong or why

¹¹ Based on the context of the conversation, it seems that the boy shot at the Childers’ home, who Childers described as “Brian,” was actually a boy named Ronnie Quarles. Likewise, the boy shot at the Bowling’s home, who Childers described as “Ricky’s brother,” was Brian Bowling.

they went to jail. Childers acknowledged that he signed a “Witness Line-up Identification Form” in the presence of Dallas Battle dated May 21, 1997, depicting an “X” marking in the box labeled “2,” which corresponded with Clark’s photo in the line-up Battle assembled, but told undersigned counsel that the form had nothing to do with the photo array, and that the “X” in the box labeled as “2” was written by police—not Childers.

Moreover, when asked what Childers was describing in his testimony at Clark’s trial for Bowling’s murder, Childers explained that he was talking about the boy that was shot at the *Childers’* home—not about the boy shot at the Bowling’s home. Childers recalled seeing Clark in the courtroom during his trial testimony, but insisted that he did not ever identify Clark as being outside when Bowling was shot to anyone—in court or otherwise.

Angela Bruce

In December 2021, the podcasters did an in-person interview with Angela Bruce at her home. Undersigned counsel also spoke to Bruce about the matter on two other occasions at her home—on April 12, 2022 and June 24, 2022. During each of these interviews, Bruce recounted the party at her house in early 1997. Bruce stated that she never actually heard Storey or Clark admit to, speak, or brag about killing Brian Bowling. Bruce said that when Storey was at her party, Storey said that Brian Bowling shot himself while playing Russian Roulette. Bruce explained that she only mentioned Clark’s name when she made the statements about the party because the police brought up his name to her.

Bruce further explained that in 1997 and 1998 she made the incriminating statements about Storey and Clark’s involvement in Brian Bowling’s death because of the actions of two Floyd County Police Officers. Bruce communicated that she was forced to make the statements about Storey and Clark to protect her children and herself. Bruce stated that Dallas Battle

harassed her at her home by seeking sexual favors multiple times. Bruce also said that David Stewart threatened to get DFCS (Division of Family and Children Services) involved and take away her young children if she did not make the incriminating statements. This new evidence regarding the motivation for Bruce's prior statements is also reinforced by a second, independent source.

Mikel Baker, Brian Bowling's maternal uncle, lived nearby the Bowlings and was very involved in supporting Brian's mother immediately following Brian's death and in the subsequent months and years as the case was being investigated and prosecuted. Baker was at the Bowling home frequently when Dallas Battle and David Stewart stopped by to share updates on the investigation. Baker recalls one such instance when the police told him and Brian's parents that they had a new witness come forward claiming that Storey and Clark confessed to killing Bowling. The police explained that the witness was reluctant to testify, which upset Bowling's mother. The police responded by reassuring her that they had some other "issues" with the witness so they would be able to take her kids away from her if she refused to testify in court.

The significance of all of the aforementioned new evidence is explored in detail below.

ARGUMENT AND CITATION OF AUTHORITIES

Code Section 5-5-41 permits the filing of an Extraordinary Motion for New Trial for "good reason," and one such reason is the discovery of new evidence. *See e.g., State v. Gates*, 308 Ga. 238, 249 (2020). The Supreme Court of Georgia has set out six requirements a movant must meet to obtain relief based on the discovery of new evidence:

- (1) that the evidence has come to his knowledge since the trial;
- (2) that it was not owing to the want of due diligence that he did not acquire it sooner;
- (3) that it is so material that it would probably produce a different verdict;
- (4) that it is not cumulative only;
- (5) that the affidavit of the witness himself should be procured or its

absence accounted for; and (6) that a new trial will not be granted if the only effect of the evidence will be to impeach the credit of a witness.

Timberlake v. State, 246 Ga. 488 (1980).

Clark has discovered new evidence that meets each of the *Timberlake* requirements and is prepared to present competent evidence at a hearing on his Extraordinary Motion for New Trial.

Claim 1: New evidence establishes that Charlie Childers’ trial testimony described an unrelated 1976 shooting for which Childers was also present, which he confused with the circumstances of the shooting of Brian Bowling.

Claim 2: New evidence establishes that Charlie Childers never told police that he saw Darrell Lee Clark at or near the Bowling’s trailer on the night of Brian Bowling’s shooting.

The new evidence set out in claims 1 & 2 satisfies all six *Timberlake* requirements.

First, it was not discovered until late 2021 that (1) Charlie Childers’ trial testimony actually described facts and circumstances of an unrelated shooting from 1976 intertwined with some details from the shooting of Brian Bowling and (2) Childers did not ever tell police that he saw Darrell Lee Clark outside of the Bowling’s trailer on the night Brian Bowling was shot.

“When considering the first *Timberlake* requirement—that the evidence has come to [a defendant’s] knowledge since trial—the inquiry is focused on the evidence itself.” *Stinchcomb v. State*, 308 Ga. 870, 876-77 (2020) (citing *Wright v. State*, 34 Ga. 110, 114 (1864)). That a witness was known to a defendant at the time of trial does not itself undermine the newness of the evidence, as long as the content of the proffered new evidence was not known to the defendant at trial. *See Id.* at 877 (holding that trial court erred in determining that defendant failed to meet the first prong of *Timberlake* on the pleadings where a witness known to the defense pre-trial submitted an affidavit containing critical facts of which the defendant was previously unaware).

Accordingly, the evidence has come to Clark’s knowledge since trial.

Second, it is not owing to a lack of diligence that Clark did not raise these claims sooner because he was unable to discover the new evidence concerning Charlie Childers through the exercise of reasonable diligence at any point prior to October 2021. *See Watkins v. Ballinger*, 308 Ga. 387, 389 (2020) (defining “due diligence” as “the diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation.”)

Clark, who was a teenager at the time of his arrest, has been incarcerated since 1997. From the time that his conviction was affirmed on appeal in 1999 until 2021, when Georgia Innocence Project agreed to represent him on a pro bono basis, Clark was without counsel and had extremely limited investigative resources. *See Orr v. State*, 5 Ga. App. 75 (1908).

Moreover, *Timberlake’s* diligence analysis must be considered in the context of the case and claims at bar. Neither Clark nor his prior defense counsel had any reason to know that Charlie Childers witnessed an unrelated accidental shooting with similar facts 20 years before the shooting of Brian Bowling, nor that he was describing what he observed about the 1976 shooting at trial, while interjecting some details of Brian Bowling’s shooting into his description—conflating the two separate shootings. Similarly, Clark and his prior counsel had no way of knowing that Childers never told police that he had seen Clark outside of the Bowling’s home when Brian Bowling was shot and, in fact, that Childers never saw *any* boy outside the Bowling’s trailer that night. Rather, without the context of the 1976 shooting, Charlie’s testimony appeared to be that he had seen a boy in the Bowling’s yard and made an in-court identification of Clark. Moreover, the testimony of Dallas Battle was just the opposite of what the new evidence reveals; Battle testified that Childers came to him with information that he had

seen a boy in the Bowling's front yard immediately after Brian's shooting, and that Childers identified Clark from a photo array as the person he had seen.¹²

While it was obvious at trial that the state-certified court interpreter struggled to understand and communicate with Childers, as he does not speak standard American Sign Language (ASL), Childers was permitted to testify nonetheless—through an interpreter who made clear she was doing her best to make sense of language and gestures she did not clearly understand.¹³ Moreover, there was no reason for the interpreter to know that Childers was describing a completely different shooting—he was a witness in the murder trial concerning Brian Bowling's death, and Childers was being questioned about Bowling. Clark had *no reason* to know about the 1976 shooting, and thus he had no reason to know Childers was blending the details of it with the death of Bowling. Thus, the new evidence for Claims 1 and 2 could not have been discovered through the exercise of reasonable diligence.

It was only through the extraordinary investigative efforts undertaken by two investigative journalists at no cost to Clark and subsequent investigation by undersigned counsel that this new evidence, by happenstance, was recently revealed. Furthermore, Clark filed this Extraordinary Motion within a year of discovering the new evidence. Accordingly, it is “not owing to the want of due diligence that he did not acquire [the new evidence] sooner.”

Timberlake, 246 Ga. at 491.

¹² Childers informed undersigned counsel that this was simply untrue. Childers said police told him that they had “caught” Clark and that Clark was a bad person. Additionally, Childers' brother, Wayne Childers, told undersigned counsel that it was Battle that first contacted the Childers. Charlie Childers also said that, while Battle knew he was deaf when they met for the first time about the case, no interpreter was ever engaged by police to communicate with him. Clark nor his prior counsel had any way of knowing about Battle's misrepresentations. And the State must not benefit from its successful concealment of Battle's misconduct for the past 25 years. The United States Supreme Court has explained, “[a] rule thus declaring ‘prosecutor may hide, defendant must seek’ is not tenable in a system constitutionally bound to accord defendants due process.” *Banks v. Dretke*, 540 U.S. 668, 696 (2004).

¹³ Defense counsel repeatedly objected throughout Childers' testimony—and even moved for a mistrial—because of the methods by which the interpreter was attempting to communicate with Childers, and the questionable reliability of the interpreter's substantive conclusions. (T. 568-69, 573, 577, 579-80, 585, 591.) But the objections were overruled. (T. 568-69, 574, 576, 578, 580, 581, 585, 592.)

Third, the new evidence that (1) Childers’ trial testimony conflated facts from an unrelated shooting and the shooting of Brian Bowling and did not actually implicate Clark in Brian Bowling’s death, and (2) Childers never told police he saw Clark outside the Bowling’s trailer when Brian Bowling was shot, is so material that, if known to the jury, the outcome of Clark’s trial very likely would have been different.

In assessing materiality, courts must attempt to account for how the new evidence would have influenced the jury’s assessment of the original evidence, had such evidence been available at the time of trial. *Gates*, 308 Ga. at 259. In doing so, this Court must weigh the new evidence in light of all the evidence in the case, “consider[ing] the strength and weaknesses of both the State’s and [the] defendant’s case and the nature and strength of [the] defendant’s new evidence.” *Id.* This Court must conduct such analysis from the perspective of a *reasonable juror*. *Id.* Evidence that “casts significant doubt on the State’s theory” satisfies the materiality test. *Id.*

The new evidence concerning Charlie Childers is material because Childers was one of only two key witnesses tying Clark to Brian Bowling’s shooting. And Childers’ testimony, interpreted as establishing that he saw a boy outside the window running through the Bowling’s yard, who he identified as Clark, was *the* primary evidence of Clark’s guilt—as he was *the* key witness establishing the State’s theory that Brian Bowling’s death was a conspiracy-driven murder by placing Clark at the scene. Despite that seven people, excluding Brian, were present in the Bowling home following the shooting, no one else claimed to have seen Clark or anyone else outside.

If Clark’s jury had the benefit of being able to understand what Childers was communicating all along—the facts of a completely unrelated shooting Childers had witnessed in 1976, intertwined with details of Brian Bowling’s shooting twenty years later—it would have

been clear that Childers was confusing two separate events that did not at all concern Clark. Additionally, had Childers been able to communicate to the jury that he had never told police that he saw Clark outside of the Bowling's trailer and that he had never, in fact, see *any* boy outside the trailer when Brian was shot, the jury almost certainly would have concluded that Clark was not at the Bowling's home, and thus he was not involved in shooting Brian Bowling.

Without Childers, only Bruce's testimony that Storey claimed he and Clark had planned the murder, and that Clark responded that he was there but did not shoot Brian (T. 1007-010) — which evidence now suggests was induced by threats from police—supported Clark's involvement. While new evidence related to Bruce essentially eviscerates any remaining evidence that Clark was involved in Brian's death, it is important to note that the new Childers evidence is material even when weighed against Bruce's trial testimony if left intact. No other witnesses from Bruce's party were called by the State to corroborate Bruce's story. Moreover, the substance of the alleged statements by Storey are not supported by the case evidence: forensic testing showed that no gunshot residue was present on the pillow (T. 395-96, 399-400), so it could not have been used in the manner claimed by Bruce, and the State did not pursue a case against Brian Bowling's then-girlfriend. Considered independently of Childers, Bruce's trial testimony was weak and unlikely to persuade any juror of Clark's guilt.

When the new Childers evidence is weighed in light of all the evidence in the case—including:

- That Clark had an alibi that he was at home with friends when the shooting occurred (T. 1285-86, 1297-98);
- No one else saw Clark at the Bowling's home on the night of the shooting (T. 66, 90);
- Only Bruce claimed Clark made and failed to disavow incriminating statements at her party (T. 1007-010), which Bruce now denies;

- Brian Bowling told his girlfriend he was playing Russian Roulette moments before he was shot (T. 455, 913, 1108);
- Brian Bowling’s gunshot wound was consistent with a self-inflicted contact injury sustained while playing Russian Roulette (T. 360);

it is extremely unlikely that *any* reasonable juror would have voted to convict Clark.

Fourth, the new evidence concerning Childers is not cumulative of any evidence presented at trial. Evidence is considered cumulative where it tends to establish the same fact and “is of the same ... grade” as that already proffered or introduced. *Brown v. State*, 264 Ga. 803, 806 (1994) (quotation omitted). Evidence that relates to a material issue as to which no previous evidence was introduced or that “is of a higher or different grade from that previously had on the same material point” is not cumulative. *Id.*

While there was testimony presented at trial concerning whether Childers saw a boy running outside the Bowling’s home when Brian Bowling was shot and whether Childers specifically saw Clark, there was no evidence *at all* presented at trial about the 1976 shooting or Childers confusing it with details of the shooting of Bowling. Therefore, the new evidence concerning Claim 1 is not cumulative. Moreover, as to Claim 2, the new evidence is not cumulative because it is of a “higher” *and* “different” grade than the evidence presented at trial as a result of the podcasters’ and undersigned counsel’s ability to (1) overcome communication barriers by utilizing the assistance of Childers’ retired teacher from the Georgia School for the Deaf—who has more than forty years’ experience communicating with Childers—to converse with him about the case, and (2) ask very specific, clarifying questions with the understanding that Childers had witnessed a separate, factually similar shooting—all of which revealed that Childers never told police that he saw Clark outside of the Bowling’s trailer. This information was unable to be discerned at trial because Childers and the certified court interpreter could not

effectively communicate with one another, and because Clark nor the interpreter knew of the 1976 shooting. Accordingly, the new evidence for Claims 1 & 2 is not merely cumulative.

Fifth, a defendant filing an Extraordinary Motion for New Trial bears the burden of procuring the affidavit of the witness supporting the claim, or accounting for its absence. *Stinchcomb*, 308 Ga. at 875. Clark is unable to procure an affidavit from Charlie Childers to support Claims 1 & 2 concerning what Childers’ trial testimony *actually* described and the fact that he did not identify Clark. This is because of Childers’ limited communication abilities. Childers can only be communicated with effectively through a qualified interpreter like Michael Burton—someone capable of understanding Childers’ communications such that he can receive and convey information with the same, or as close as possible to the same, level of accuracy and reliability as a witness with no hearing and speech impairment, as required by the Americans With Disabilities Act,¹⁴ O.C.G.A. § 24-6-650,¹⁵ and O.C.G.A. § 24-6-652 (“The agency conducting any proceeding shall provide a qualified interpreter to the hearing impaired person... whenever the hearing impaired person is a party to the proceeding or a witness before the proceeding.”) A written affidavit is simply insufficient for effective communication with

¹⁴ Title II of the Americans with Disabilities Act applies to “any [s]tate or local government” and “any department, agency, ... or instrumentality of a [s]tate ... or local government.” 42 U.S.C. § 12131(1). The ADA defines a disability, in part, as “a physical or mental impairment that substantially limits one or more major life activities.” 42 U.S.C. §§ 12131 et seq.; 28 C.F.R. §§ 35.101-35.190. And it requires that Title II entities provide access to effective communication for individuals who have communication disabilities, including deaf people and people with speech impairments. 28 C.F.R. §§ 35.160 (a). Specifically, the ADA requires the use of a qualified interpreter for those who need it and defines such an interpreter as one “who is able to interpret effectively, accurately, and impartially, both receptively (i.e. understanding what the person with the disability is saying) and expressively (i.e. having the skill needed to convey information back to that person) using any necessary specialized vocabulary.” 28 C.F.R. §§ 35.104. *See also* U.S. Department of Justice, Civil Rights Division, Disability Rights Section, *Effective Communication* (Jan. 2014) <https://www.ada.gov/effective-comm.pdf>.

¹⁵ O.C.G.A. § 24-6-650, which governs the State of Georgia’s policy on hearing-impaired persons, provides: “It is the policy of the State of Georgia to secure the rights of hearing impaired persons who, because of impaired hearing, cannot readily understand or communicate in spoken language and who consequently cannot equally participate in or benefit from proceedings, programs, and activities of the courts, legislative bodies, administrative agencies, licensing commissions, departments, and boards of this state and its political subdivisions unless qualified interpreters are available to assist such persons.”

Childers, and requiring him to submit one would run the risk of again compromising the accuracy of the information he has to convey.

As explained, Childers' unique communication style does not comport with any standard sign language, though he does utilize signing in conjunction with other methods such as lip reading and visual mediums. While Childers can read and write, his literacy proficiency appears to be limited, and strictly written words are not his primary method of communication. However, undersigned counsel is prepared to support these Childers-related claims with live testimony from Childers, with a qualified interpreter, at an evidentiary hearing on this Extraordinary Motion for New Trial.

Sixth, the new evidence is not merely impeaching. Evidence is considered merely impeaching when its sole purpose is to undermine the credibility of a witness. *Timberlake*, 246 Ga. at 291. Substantive evidence supporting the defense's case is not merely impeaching. *See Humphries v. State*, 207 Ga. App. 472, 475 (1993) *overruled on other evidentiary grounds by State v. Burnes*, 306 Ga. 117 (2019).

At Clark's trial, two witnesses primarily testified about what Childers was understood to have observed outside of the Bowling's trailer on the night Brian Bowling was shot: Charlie Childers and Dallas Battle. As addressed in detail above, Charlie Childers' trial testimony, without the context of the 1976 shooting, was interpreted as him having described only the shooting of Brian Bowling,¹⁶ him seeing a boy in the Bowling's yard immediately after Brian was shot (T. 570), and then identifying that boy as Clark (T. 591). The new evidence, that Charlie Childers was describing a 1976 shooting and confusing with it some details from

¹⁶ Childers' testimony was interpreted as concerning only the shooting of Brian Bowling, as that was the only shooting the murder trial was about. Moreover, the interpreter did not conclude that Childers ever conveyed information concerning a different or separate shooting.

Bowling's shooting and that he did not identify Clark, does not merely impeach his prior testimony—rather, it makes clear what the trial interpreter was unable to understand and communicate. Significantly, there was no reason for the interpreter to know that Childers was describing a completely different shooting, as he was called as a witness for a trial concerning the murder of Brian Bowling, and Childers was questioned about Bowling's death.

Finally, while the new evidence that Charlie Childers never saw Clark, or any boy, outside of the Bowling's trailer when Brian was shot and that he never told police as such does contradict the testimony of Dallas Battle, it is not merely impeaching because it is substantive evidence relating to a critical factual issue at trial, an issue presented to the jury via more than just the testimony of Battle—but also the testimony of Wayne Childers and Charlie Childers himself.

Accordingly, the new evidence concerning Claims 1 & 2 is not merely impeaching.

Claim 3: New evidence establishes that officers Dallas Battle and David Stewart had a conversation with the Bowling family about Angela Bruce, in which they assured the family that she would testify because they could take away her children if she refused.

Claim 4: New evidence establishes that neither Storey nor Clark confessed to shooting Brian Bowling at Angela Bruce's party.

The new evidence described in Claims 3 & 4 satisfies all six *Timberlake* requirements and requires the grant of a new trial.

First, the evidence that Angela Bruce was coerced into making false, incriminating statements against Clark and Storey under the threat of losing her children and that the police's plan to secure Bruce's incriminating testimony was shared with the Bowling family before trial was never discovered until late 2021. None of Clark's attorneys prior to undersigned counsel were ever aware of this information. Thus, Clark meets the requirement that the evidence has come to his knowledge since the time of his trial.

Second, it is not owing to a lack of diligence that Clark did not discover the information about Angela Bruce’s coerced statements or the police’s plan to procure her testimony at an earlier date. Clark was arrested just after he turned 18 years old and has been incarcerated since 1997. Clark’s appeal concluded in 1999; he has not been entitled to counsel or any other legal assistance for over 23 years. During that time, Clark has been faced with a severe lack of resources. *See Orr v. State*, 5 Ga. App. 75 (1908) (“In every case the exercise of ordinary diligence or its absence is to be determined by comparing the conduct under consideration with that of an ordinary man under similar circumstances; and indeed, in some contingencies, inaction may be the result of circumstances such as would cause every other ordinary man likewise to be inactive.”) However, within a year of learning about the new evidence—which was only uncovered after an extensive investigation done by the podcasters without any cost to Clark or his family—Clark has filed this Extraordinary Motion for New Trial, seeking to vindicate his rights.

It is important to note that the new evidence related to the conversation that the police had with Bowling’s family about procuring Bruce’s coerced testimony stems from misconduct which was unknown to Clark or his lawyers. Surely, reasonable diligence does not require a convicted defendant to speak to each of the victim’s family members in the absence of any indication of misconduct. *See e.g., Watkins v. Ballinger*, 308 Ga. 387, 393 (2020) (reversing the habeas court’s dismissal and holding that reasonable diligence did not require a convicted defendant to interview each of the trial jurors—which could raise concerns about the burden such a practice would have on both defendants and jurors—when there was no reason to believe that any juror misconduct had occurred). Further, although Clark and Storey’s lawyers attempted to

ferret out any nefarious motivations behind Bruce’s testimony during the trial,¹⁷ they were misled by repeated statements by the prosecutor touting Bruce’s testimony as a credible and reliable witness (T2. 86, 88). *See Ford Motor Co. v. Conley*, 294 Ga. 530, 543 (2014) (affirming a finding that the late discovery of new evidence was not owing to a lack of due diligence but, rather, was the result of the movant having been misled about critical facts).

Third, the new evidence is material and would probably produce a different verdict. When assessing materiality, this Court is required to consider the newly discovered evidence from the perspective of a *reasonable juror* and determine whether it would have been persuasive in light of the other evidence presented at trial. *See State v. Gates*, 308 Ga. 238, 259 (2020). Evidence that “casts significant doubt on the State’s theory” meets *Timberlake’s* materiality standard. *Id.*

In presenting its case to the jury, the State primarily hung its hat on the testimony of Charlie Childers and Angela Bruce (the importance of both witnesses are described in more detail above). In short, Bruce told the jury that Cain confessed to shooting Bowling while Clark was present and Clark said he was there but did not shoot Bowling. (T. 1008-10.) Taken at face value, the testimony given by Bruce was certainly incriminating. There can be no doubt, however, that the jury would have weighed Bruce’s testimony very differently if it had known about the police threatening to take her children—a fact that Dallas Battle and David Stewart openly shared with Bowling’s family during the course of the investigation. In fact, even outside of giving the jury a reason to doubt Bruce’s testimony itself, it is likely that the evidence about the police disclosing a plan to threaten Bruce’s children would have impacted the weight the jury

¹⁷ For example, the defense attorneys tried to explore the fact that Bruce had been in contact with the police on multiple other occasions, had been released from jail twice after she made statements related to the Clark/Storey case, and whether she was working for the police for money. (T. 1048-52, 1071.)

lent to the testimony of both Battle and Stewart. *See e.g., Gates*, 308 Ga. at 263 (explaining how the newly discovered DNA evidence “would probably also have limited the weight given by the jury to [an] eyewitness’s identification[] of Gates.)

The evidence in this case was not clear cut and, as a result, at one point the jury was split 9-3. (T. 1499.) The jurors deliberated for approximately 13 hours over two days before ultimately reaching a guilty verdict. (T. 1482-1509.) Given the jury’s struggle to reach a verdict, if it had been aware that the police had created a plan in advance to force Angela Bruce to testify (namely by threatening to take away her children) and then shared that plan with the Bowling family, ultimately leading to Bruce giving false testimony, “it is probable that at least one reasonable juror would have had reasonable doubt about [Clark’s] guilt.” *Gates*, 308 Ga. at 261.

Fourth, the new evidence is not merely cumulative. Nothing that the jury heard remotely relates to the new evidence—it was completely unaware that the police told Bowling’s family about their plan to require Bruce to give testimony in the case (including threatening her children). *Cf. Hamilton v. State*, 119 Ga. App. 196, 197-98 (1969) (holding that affidavits in support of an extraordinary motion for new trial that merely recount witnesses’ trial testimony are insufficient to overcome the requirement that the new evidence is not “merely cumulative.”)

Likewise, the jury did not hear any independent, affirmative evidence that there had actually been no confession at Bruce’s party. While Storey gave testimony denying that he spoke about the shooting at the party (T. 1190), he had a clear interest in the outcome of the case and the jury apparently disbelieved his testimony, given that it rejected his account of events that Bowling accidentally shot himself when it chose to convict him of murder. Under similar circumstances, Georgia appellate courts have affirmed numerous times that the question of whether new evidence is merely cumulative must consider “whether the new evidence is of the

same or different grade,” leading to the conclusion that when the new evidence “is of a higher and different grade from that previously had on the same material point, that it will ordinarily be taken outside the definition of cumulative evidence.” *Brown v. State*, 264 Ga. 803, 806 (1994). Evidence from witnesses other than an interested defendant is certainly of a “higher and different grade” than the defendant’s own denials. Thus, Bruce’s own statements that there was no confession at the party are not merely cumulative. *State v. Simmons*, 321 Ga. App. 688, 695 (2013) (affirming the grant of a new trial based on cell phone evidence that provided new, “independent” support for the defendant’s alibi witnesses that previously testified at trial).

Fifth, a movant must provide an affidavit or explain the absence of the affidavit. *Stinchcomb*, 308 Ga. at 875. The affidavit of Brian Bowling’s uncle, Mikel Baker, is attached to this motion. (Exhibit A.) In addition to Baker’s affidavit, undersigned counsel is prepared to support the new evidence claims with the live testimony of additional witnesses, including Angela Bruce, at a hearing.¹⁸

Sixth, the new evidence is not merely impeaching. Pursuant to *Timberlake*, if the “only effect” of the new evidence is to impeach a witness’s credibility, a new trial will not be granted. 246 Ga. at 291 (emphasis added); see e.g. *Williams v. State*, 312 Ga. 195 (2021) (explaining that when new evidence only demonstrates “relatively minor” inconsistencies in a witness’s trial testimony, it is merely impeaching and does not satisfy the *Timberlake* standard). However, when the new evidence also constitutes substantive evidence supporting the defense, it is not merely impeaching. See *Humphries v. State*, 207 Ga. App. 472, 475 (1993) *overruled on other evidentiary grounds by State v. Burnes*, 306 Ga. 117 (2019).

¹⁸ Although Angela Bruce voluntarily spoke about the case to the podcasters and then to undersigned counsel on two occasions, she was unwilling to voluntarily sign an affidavit. Because Bruce currently lives in South Carolina, undersigned counsel will need to use the statutory provisions to subpoena an out-of-state witness to procure Bruce’s testimony at a hearing on this motion. See O.C.G.A. §§ 24-13-90 et seq.; S.C. Code Ann. §§ 19-9-10 et seq.

Here, the new evidence about the detectives' plan to procure Bruce's testimony goes far beyond demonstrating minor inconsistencies—it relates directly to official misconduct that could have been used to call into question the bedrock of the entire police investigation. Further, the fact that neither Storey nor Clark ever confessed at Bruce's party is not a fact useful *only* to impeach Bruce's trial testimony, rather, it establishes that "the occurrence to which the State's witness[] testified never transpired." *Orr v. State*, 5 Ga. App. 76, 78 (1908). This type of "newly discovered evidence does not come within the class of evidence merely cumulative and impeaching, but goes to the substantial justice of the case." *Id.*

CONCLUSION

New evidence related to *both* of the two critical witnesses against Clark has recently come to light. Although it was completely unknown to Clark or his lawyers until 2021, Charlie Childers was a witness to a similar shooting in 1976 and experiences great difficulty and confusion when attempting to separate the facts of that case from the circumstances surrounding Brian Bowling's 1996 death. In a similar vein, it is also now clear that Childers never told the police that he saw Clark running through the yard at the Bowling trailer on the night of the shooting; a fact that removes Clark's connection to the shooting almost entirely.

Beyond Childers' testimony, it is now known that Angela Bruce, the other main witness against Clark, was threatened by police—that if she refused to give testimony in court, they would remove her children—and that this plan to force her testimony was shared with the Bowling family shortly after Bruce made incriminating statements to police, seven months after Brian Bowling's death. Further, despite Bruce's incriminating testimony at trial about Storey's confession and Clark's remarks at her party, the truth of the matter has now been exposed: neither Storey nor Clark ever made any statements about killing Brian Bowling.

In light of the new evidence described above, the case against Clark has completely fallen apart.

Because Clark has alleged meritorious claims based on new evidence, “showing with clarity and specificity the facts he [] intends to prove in a hearing and how those proffered facts support his [] claim that a new trial is warranted,” he is entitled to a hearing on his Extraordinary Motion for New Trial. *See Stinchcomb*, 308 Ga. at 875. Accordingly, Clark respectfully requests that the Court set a hearing on the Motion. At the hearing, Clark will further demonstrate that he has met all six *Timberlake* requirements and that justice requires that he be granted a new trial where *all* of the relevant evidence can be examined carefully by a jury.

Respectfully submitted, this 16th day of September, 2022.

/s/ Christina Cribbs
Christina Cribbs
Georgia Bar No. 542077

/s/ Meagan Hurley
Meagan Hurley
Georgia Bar No. 820784

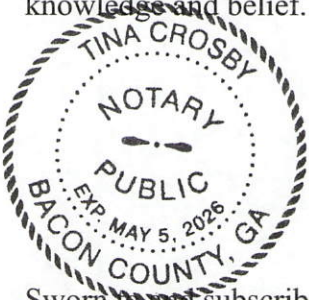
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IN THE SUPERIOR COURT OF FLOYD COUNTY
STATE OF GEORGIA

State of Georgia,)
)
 Plaintiff)
)
 v.) Case No. 97-CR-6320-3
)
 Cain J. Storey and)
 Darrell Lee Clark,)
)
 Defendants.)

VERIFICATION

I, Darrell Lee Clark, personally appeared before the undersigned officer duly authorized to administer oaths and, after oath was administered, deposed and stated that the facts in the foregoing **Extraordinary Motion for New Trial** are true and correct to the best of my knowledge and belief.



Darrell Clark

Darrell Lee Clark, Affiant

Sworn to and subscribed
before me on this 15th day
of Sept, 2022.

Tina Crosby
Notary Public

Exhibit A

IN THE SUPERIOR COURT OF FLOYD COUNTY
STATE OF GEORGIA

State of Georgia,)	
)	
Plaintiff)	
)	
v.)	Case No. 97-CR-6320-3
)	
Cain J. Storey and)	
Darrell Lee Clark,)	
)	
Defendants.)	

AFFIDAVIT OF MIKEL BAKER

I, Mikel Baker, am over eighteen years of age, of sound mind, and hereby state the following under oath and with personal knowledge:

1. On October 18, 1996, my 15-year-old nephew, Brian Bowling, sustained a single gunshot wound to the head. He died at the hospital the next day.
2. In early 1998, Darrell Lee Clark and Cain Josuha Storey were convicted of murder in relation to Brian's death.
3. Brian's mother (my sister, Deborah Bowling) and his father (Rocky Bowling) are both deceased. I am one of Brian's closest living relatives.
4. Around the time of Brian's death, I lived nearby and frequently spent time with the Bowling family at their home. My regular visits continued after Brian died.
5. The policemen responsible for the investigation into Brian's death frequently (approximately once or twice a week) came to the Bowling home to update the family about the progress of the investigation.
6. Although I do not recall the exact date, around 4-5 months after Brian died, two detectives came to the Bowling home while I was there. Deborah, Rocky, and I were sitting in the living room when the detectives delivered information about a big update they had in the investigation—they had found a witness that had a party attended by Darrell Lee Clark and Cain Joshua Storey, where the two boys were apparently bragging about killing Brian.

7. My sister Deborah became upset when we learned that the witness did not want to testify and began to ask the policemen what she could do to help. They assured Deborah not to worry about it because they had "issues" with the witness and could take her children away.
8. I have a clear memory of this occasion because it was a significant development in the investigation and it is the first time we ever heard anything about Darrell Lee Clark being involved in Brian's death.
9. I have not been threatened or promised anything and I am giving this statement on my own free will.

I swear or affirm that the above statements are true, on penalty of perjury.

Mikel M Baker

Signature

Mikel M Baker

Printed Name

Date

9/13/22

222 Arbor Dr

Address

Rockmart GA 30153

Telephone

766-331-1541

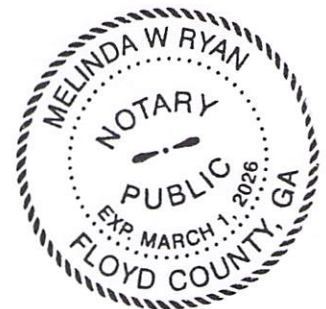
Sworn to and subscribed before me this 13 day of September, 2022.

Melinda W Ryan

Notary Public

My Commission Expires:

March 1, 2026



CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the Defendant's **Extraordinary Motion for New Trial** on the following counsel by mailing a true copy of the same by U.S. Mail with the required postage stamps affixed thereto:

Floyd County District Attorney's Office
3 Government Plaza Suite 108
Rome, GA 30161

/s/ Christina Cribbs
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