

**James A. Williams**  
**Louisiana Bar # 13504**

**Memorandum in Support of Bar Complaint**

**I. Overview**

Between 1984 and 1989, James A. Williams was the prosecutor at no fewer than *eleven trials* at which the State unlawfully withheld evidence. At eight of these trials, Mr. Williams sought to have the defendant executed.

The eleven trials were prosecuted against eight different people and led to one person being sentenced to death, one to both death *and* 49½ years in prison, and five to life without parole. The remaining defendant was never convicted. Four of the seven convicted defendants, including both of those sentenced to death, were later exonerated. The other three accepted plea deals to secure their immediate releases after decades of imprisonment. The seven defendants collectively spent over 220 years in prison.

Mr. Williams has never been charged publicly with misconduct by the Office of Disciplinary Counsel (ODC). I am presenting proof of Mr. Williams' violations of the Rules of Professional Conduct from the Jerry Davis and Raymond Flanks cases, proof that I learned about in the course of representing them. Mr. Davis was exonerated after forty years of wrongful imprisonment. Mr. Flanks was exonerated after thirty-eight years.<sup>1</sup> I request that ODC immediately prosecute Mr. Williams for his misconduct in these cases. In addition, given Mr. Williams' pattern of similar misconduct and ODC's mandate to investigate, I am requesting that ODC conduct a prompt and thorough investigation of the other cases discussed in this Complaint and file any additional appropriate charges.

**II. James Williams committed misconduct when prosecuting Jerry Davis.**

**A. Case Overview**

Jerry Davis was arrested on June 21, 1983, for the first-degree murder of John Broussard. *JD Ex. 2 at 8.*<sup>2</sup> Mr. Broussard was shot and killed outside his trailer and his wife was robbed inside the trailer. Mr. Davis was convicted of first-degree murder on January 31, 1984. *JD Ex. 64.* The State's case relied on accomplice testimony from Phillip John Ware, who testified that he

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<sup>1</sup> Mr. Flanks' name is consistently misspelled as Flank in papers related to his case.

<sup>2</sup> An explanation of the record citations is enclosed as an appendix to this memorandum.

approached the trailer with Jerry Davis and was inside the trailer robbing Mrs. Broussard while Mr. Davis was outside when the shooting occurred. *JD Ex. 64 at 84-86*. Mr. Ware was allowed to plead guilty to manslaughter in exchange for his testimony against Mr. Davis. *JD Ex. 64 at 92*. Mrs. Broussard testified that Mr. Ware was in the trailer when she heard the shooting, but she expressed some uncertainty. *JD Ex. 64 at 63-64*. Allen Johnson testified that Mr. Davis confessed to him after the crime. *JD Ex. 64 at 73*. Mr. Williams described Mr. Johnson as “the key to this case.” *JD Ex. 64 at 156*.

Mr. Davis’s conviction was vacated on July 26, 2023, based on “the breadth and severity of the *Brady* violation and the *Napue* violations.” *JD 2023 – 7.26 Transcript at 72-73*; *JD 2023 – 8.9 Transcript at 25*. He was released on bond in the early hours of August 10, 2023, after 14,661 days in prison. Charges against him were dismissed on March 15, 2024. The full extent of the new evidence is discussed in the post-conviction filings enclosed with this complaint. This complaint focusses on the specific acts of Mr. Williams.

## **B. James Williams’ Role in Prosecuting Jerry Davis**

Mr. Davis was indicted on July 7, 1983. Mr. Williams signed for the case as lead prosecutor on July 12, 1983. *JD Doc. 1*. He signed the State’s false answers to Mr. Davis’s Application for Bill of Particulars. *JD Ex. 41*; *JD Ex. 42*. He was lead prosecutor at Mr. Davis’s trial on January 30 and 31, 1985. *JD Ex. 64*.

## **C. James Williams Failed to disclose favorable and material evidence of which he was personally aware.**

Mr. Williams failed to disclose *Brady* material of which he was personally aware. This constitutes a violation of Rules of Professional Conduct Rules 3.8(d) and 8.4. The non-disclosures were stipulated to by the State. *JD 2023 – 7.24 Stipulations*. Evidence proving the non-disclosures is also included. *See JD 2023 – 3.29 PCR at 16-17*. The evidence of what Mr. Williams knew and why it was *Brady* material is as follows:

### **1. Allen Johnson’s Incentive and Deal.**

Mr. Williams told the jury that Allen Johnson was “the key” to the State’s case. *JD Ex. 64 at 156*. As detailed below, he repeatedly told the jury that Mr. Johnson did not have any pending legal matters when he implicated Mr. Davis and so was not acting out of self-interest. *JD Ex. 64 at 149, 156, 157*. This was not true. When Mr. Johnson first implicated Mr. Davis, Mr. Johnson had been convicted of simple burglary and was awaiting sentencing in Case Number 292-782. *JD*

*Ex. 20*. Mr. Johnson was facing a potential twenty-four year sentence as a habitual offender. *See State v. George*, 482 So. 2d 927, 929 (La. App. 2 Cir. 1986) (describing relevant law at the time). Further, Mr. Johnson assisted police in return for “help on sentencing” and the State agreed “to give Johnson what we had to in order to secure his cooperation in the homicide case.” *JD Ex. 23*. This included not using the habitual offender law. *JD Ex. 23*. Mr. Johnson received inactive probation and a motion to modify this sentence as illegally lenient was continued until after he testified against Mr. Davis. *JD Ex. 20; JD Ex. 25; JD Ex. 26*. The motion to modify was never taken up. *JD Ex. 20; JD Ex. 26*. A pending case and a benefit for assisting law enforcement are clearly impeachment evidence that fell within the *Brady* rule. *See State v. Sparks*, 1988-0017, pp. 66-67 (La. 5/11/11), 68 So.3d 435, 485-86 (compiling relevant law).

Documents show that Mr. Williams was aware of this undisclosed material. The screening ADA who arranged the deal for Mr. Johnson left a note in the file telling the assigned prosecutor about Allen Johnson and to “see me concerning this case.” *JD Ex. 36*. Another note in Mr. Williams’ file refers to Allen Johnson as the “chief witness” and noted that he had a “sec. A case.” *JD Doc. 2*. This corresponds to the undisclosed burglary case that was being prosecuted in Section A of Criminal District Court. *JD Ex. 20*. The draft and typed version of a memorandum written by Mr. Williams prior to Mr. Davis’s trial refers to Mr. Johnson having “two burglary convictions.” *JD Ex. 21 at 2; JD Ex. 22 at 3*. The undisclosed burglary conviction from Case Number 292-782 was one of Mr. Johnson’s two burglary convictions at the time. Mr. Williams evidently had personal knowledge of the burglary case that he failed to disclose.

## **2. Allen Johnson’s Criminal Record**

Mr. Johnson, under questioning from Mr. Williams, admitted to one prior conviction for burglary from 1977. *JD Ex. 64 at 75*. In fact, Mr. Johnson also had the 1983 burglary conviction in Case Number 292-782 discussed above, a 1977 conviction for misdemeanor theft, and a 1979 municipal conviction for unauthorized use of a moveable. *JD Ex. 12 at 15; JD Ex. 18; JD 19 at 2*. Mr. Williams’ memorandum documents that he was personally aware of Mr. Johnson having “a long criminal record, including two burglary convictions.” *JD Ex. 21 at 2; JD Ex. 22 at 3*.

## **3. Allen Johnson’s Verbal Statement to Law Enforcement**

Mr. Johnson testified at trial that Mr. Davis confessed to him. *JD Ex. 64 at 73*. In Mr. Johnson’s first conversation with law enforcement, as documented by the NOPD daily report and supplemental report, Mr. Johnson stated that Mr. Ware confessed to him and made no mention of Mr. Davis. *JD Ex. 2 at 7; JD Ex. 3*. Both of these reports were contained in the OPDA file on the prosecution of this case, so were personally known to Mr. Williams.

#### **4. The Victims' Statements Implicating Phillip Ware**

The incident report written by the first reporting officers documents a dying declaration by John Broussard and a statement by his wife. Mr. Broussard stated that the perpetrator who entered the camper, who was later identified as State's witness Phillip Ware, was the shooter. *JD Ex. 1 at 5*. Ms. Broussard stated that the perpetrator she later identified as Mr. Ware entered the trailer after she heard the shooting. *JD Ex. 1 at 6*. These statements contradict the State's case at trial that Mr. Davis had perpetrated the shooting while Mr. Ware was in the trailer and so are plainly favorable to Mr. Davis.

There was a copy of the initial report in the DA's file, so Mr. Williams was personally aware of it. This copy of the report has a notation under the report of the victim's dying declaration stating "this contradicts wife's statement – possible ambiguity by reports author." *JD Ex. 1 at 5*. However, there is no factual basis for questioning the report's accuracy. The surviving author stands by its accuracy. *JD Ex. 71*. It is also corroborated by the complaint history. *JD Ex. 4; see also JD 2023 – 7.11 Reply at 4, 9-10*. Further, Mr. Williams' decision not to call either first reporting officer at trial corroborates the fact that he was aware that their testimony would assist the defense.

#### **5. Phillip Ware's Criminal Record**

Under questioning from Mr. Williams, Mr. Ware testified that he did not have any other convictions. *JD Ex. 64 at 89*. Mr. Ware actually had convictions for simple battery (committed while resisting arrest) and escape. *JD Ex. 9; JD Ex. 32; JD Ex. 33*. The simple battery conviction was documented in an FBI rap sheet in the DA file, so Mr. Williams was personally aware of it. *Ex. 34; Ex. 35*. Further, a handwritten note in the DA file that appears to have been made during Mr. Ware's testimony states "simple battery" and "resisting arrest," which further documents the prosecution team's awareness of these convictions. *JD Doc. 3*.

#### **6. The Witness Descriptions Implicating Mr. Ware and Mr. Johnson and Exculpating Mr. Davis**

The supplemental report in the DA file includes statements from two witnesses who saw two people fleeing the crime scene. *JD Ex. 2 at 5-7*. Each witness described the two perpetrators as being an inch apart in height. *JD Ex. 2 at 5-7*. Mr. Ware, who is one of the perpetrators, is 6' tall. *JD Ex. 9*. Mr. Davis is only 5'6". *JD Ex. 13*. However, Mr. Johnson is 6'1". *JD Ex. 12 at 1*. Mr. Williams was aware of each person's height, as each was each present in court at trial, so had

sufficient knowledge to know that the descriptions of relative height were favorable to Mr. Davis.

## **7. Possible Other Evidence**

Beyond the six categories of undisclosed evidence that Mr. Williams was aware of and did not disclose, there may have been additional undisclosed favorable evidence of which Mr. Williams was aware. Additional withheld evidence that did not come from the DA file on this case was presented by Mr. Davis. *JD 2023 – 3.29 PCR at 19-21; JD 2023 – 4.12 Supplement*. Former-ADA Stephen Laiche, who assisted Mr. Williams’ preparation for this case for trial, has provided an affidavit stating that it “would surprise” him if he did not talk to additional witnesses, that his interview notes were potentially “lost or removed from the file,” and that the DA’s office “would not make a disclosure to the defense” of favorable evidence from its witness interview. *JD Doc. 4*.

### **D. James Williams failed to exercise candor to the tribunal.**

Mr. Williams made false statements in filings and arguments and failed to correct false testimony. These constitute violations of Rules of Professional Conduct Rules 3.3(a) and 8.4.

#### **1. James Williams’ False Discovery Response**

The defense moved pre-trial for any “materially favorable” evidence in the State’s possession. *JD Ex. 41 at 3*. ADA Williams replied that there was “none.” *JD Ex. 42 at 1*. The defense asked for statements of non-testifying witnesses. *JD Ex. 41 at 2*. ADA Williams replied that the defense was “not entitled” to them. *JD Ex. 42 at 1*. The defense requested information regarding any deals with co-conspirators. *JD Ex. 41 at 5*. ADA Williams replied that this was “not applicable.” *JD Ex. 42 at 2*. The defense requested that records of “arrest and conviction” be made “available to the defense.” *Ex. 41 at 5*. ADA Williams replied that this was “not applicable.” *Ex. 42 at 2*.

Given the favorable evidence of which Mr. Williams was personally aware discussed above, these were knowingly false statements.

#### **2. James Williams’ False Argument About Allen Johnson**

Mr. Williams repeatedly told the jury that Mr. Johnson approached police in this case when he was “in no trouble” with the law and came forward for altruistic reasons. His closing argument included the following:

Was there any reason put forward, or brought out by the defense why he [Allen Johnson] would come here, or why he would go to the police earlier and lie about what happened. None whatsoever. And, that's something that's very important because when you decide whether or not you believe a witness, you must look to his reasons for testifying. And, he came to the police -- he came to Det. Winins before he got into this other trouble with the obscenity. At the time he first gave his statement to Det. Winins, he was in no trouble.

*JD Ex. 64 at 149.*

[Allen Johnson] had enough gumption, enough fortitude to come forward, and to try to right a wrong.

*JD Ex. 64 at 149.*

He [Allen Johnson] didn't quite know what to do, but he did come forward, and I think, he's to be congratulated for that.

*JD Ex. 64 at 156.*

Allen Johnson did it because it was on his mind so long, that he couldn't stand it anymore.

*JD Ex. 64 at 157.* He also failed to correct his second-chair, ADA Holly Taylor, when she argued:

[Allen Johnson gave the] initial information that leads to the arrest of Philip Ware, and that's very important because he doesn't have interest at this point. He has no interest at all. He has no open charges at this point."

*JD Ex. 64 at 106-07.* As detailed above, Allen Johnson was awaiting sentencing when he came forward in this case, received benefits as a result, and Mr. Williams was personally aware of these facts. *See pp. 2-3.*

### **3. James Williams Failure to Correct Allen Johnson's False Testimony**

Mr. Williams presented testimony from Mr. Johnson in which he claimed that he had only one prior conviction for burglary from 1977. *JD Ex. 64 at 75.* As detailed above, Mr. Johnson had

three additional convictions. *See p. 3.* Mr. Williams was aware of this and memorialized his knowledge of Mr. Johnson’s “long criminal record.” *JD Ex. 21 at 2; JD Ex. 22 at 3.*

#### **4. James Williams’ Failure to Correct Phillip Ware’s False Testimony**

Mr. Williams presented testimony from Mr. Ware in which he stated that he had no prior convictions. *JD Ex. 64 at 89.* As detailed above, Mr. Ware had two prior convictions and Mr. Williams was personally aware of at least one of them. *See p. 4.*

### **III. James Williams committed misconduct when prosecuting Raymond Flanks**

#### **A. Case Overview**

Raymond Flanks was arrested on December 23, 1983, for the first-degree murder of Martin Carnesi. *RF Ex. 3.* Mr. Carnesi was shot and killed outside his home. Mr. Flanks first went to trial on August 28, 1984. *RF Ex. 15.* That trial resulted in a hung jury. *RF Ex. 15; RF Ex. 16.* Mr. Flanks was tried again and convicted of first-degree murder on May 15, 1985. *RF Doc. 1.* The State’s case at the 1985 trial relied on an identification of Mr. Flanks by Mr. Carnesi’s wife, initially made from a photo array six days after the crime.<sup>3</sup> *RF Doc. 1 at 50-56.* Ms. Carnesi also testified that the new car that Mr. Flanks was arrested in looked “exactly like” the car used by the perpetrator. *RF Doc. 1 at 49.* Ms. Carnesi’s testimony was corroborated by Det. Dillmann, who testified that Ms. Carnesi described a “late model automobile” to him on the day of the crime. *RF Doc. 1 at 21.*

On November 14, 2022, the State and Mr. Flanks jointly moved for post-conviction relief, agreeing that “Mr. Flank’s conviction was obtained in violation of *Brady v. Maryland* and must be vacated.” *RF 2022 – 11.14 Joint Agreement at 10.* On November 17, 2022, the district court accepted the agreement and found that “Mr. Flank did not receive the justice that he deserved on that particular day” and that “there was so much information that could have led to a different result in Mr. Flank’s trial had Mr. Flank’s attorney been given that information.” *RF 2022 – 11.17 Transcript at 24.* The same day, the State dismissed the case and Mr. Flanks was freed - 38 ½ years after his arrest. *RF 2022 – 11.17 Nolle Pros.* A fuller description of the new evidence is contained in the post-conviction filings enclosed with this complaint. This complaint focusses on the specific acts of Mr. Williams.

#### **B. James Williams’ Role in Prosecuting Raymond Flanks**

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<sup>3</sup> At the first trial, the State presented testimony that a firearm examination established that Mr. Flanks had been arrested with the murder weapon. *RF Ex. 16.* This was debunked by the ATF by the time of the re-trial and so was not presented at the second trial. *RF Ex. 17.*

Mr. Williams filed the State's responses to the defense's discovery filings on August 22, 1984. *RF Doc. 2; RF Doc. 3; RF Doc. 4; RF Doc. 5*. He was lead counsel at Mr. Flanks' first trial. *RF Ex. 15; RF Ex. 16; RF Doc. 6*. He also appeared for the State at Mr. Flanks' second trial. *RF Doc. 1*. Lead counsel at that trial, former-ADA Bruce Whittaker, has stated that it would have been normal practice for him to have relied upon Mr. Williams' discovery responses. *RD Doc. 6*.

**C. James Williams Failed to disclose favorable and material evidence of which he was personally aware.**

Mr. Williams failed to disclose *Brady* material of which he was personally aware. This constitutes violations of Rules of Professional Conduct Rules 3.8(d) and 8.4.

The non-disclosure of documents containing favorable evidence was agreed to by the State. *RF 2022 – 11.14 Joint Agreement at 5, 10*. These included the following documents that were in Mr. Williams' file, meaning that he had personal knowledge of the favorable information contained in them:

- Incident Report. *RF Ex. 1*.
- Grand Jury Testimony of Ms. Carnesi. *RF Ex. 2*.
- Supplemental Report. *RF Ex. 3*.
- Daily Report of 12/17/83. *RF Ex. 5*.
- Daily Report of 12/19/83. *RF. Ex. 6*.
- Daily Report of 12/27/83. *RF Ex. 14*.

The non-disclosure of the favorable information is also confirmed by Mr. Williams' discovery responses, in which none of the favorable evidence was disclosed. *RF Doc. 2; RF Doc. 3; RF Doc. 4; RF Doc. 5*. Further, the defense was specifically denied access to the incident report at a pre-trial hearing. *RF Doc. 7 at 43-44*. Non-disclosure is also consistent with the discovery practices to which Mr. Williams has previously testified. *JD Ex. 43 at 98-100, 103-04, 177-78*. The evidence of what Mr. Williams knew and why it was *Brady* material is as follows:

**1. The Identification Procedure**

At Mr. Flanks' 1985 trial, Ms. Carnesi testified as follows about the December 23, 1983, identification procedure:

I glanced at these -- In other words, I looked at four of them at first and I put them on the side. I had two left and I looked at them. I looked at one picture and then looked at this and I got hysterical, and said this is the man. I am sure this is the man. My son-in-law



was there. My daughter, Debbie was there. I don't know who else was there, and my daughter, Gayle was there. I said, "I am sure this is the guy. I am sure this is the guy." I started shaking and I grabbed my son-in-law's hand so tight until his hand was white from me gripping it. I said, "Get me a flashlight, Jerry. Let me look. I have to be positive. I do not want to accuse anyone of killing my husband unless I am sure." He got the flashlight and put the flashlight on it and it was him. This is the man that killed my husband. This man. I can't never forget his face never, ever. If I live to be a thousand years old. Every night when I go to bed I see this man shoot my husband.

*RF Doc. 1 at 53-54.* She testified that Det. Dillmann "didn't tell me anything." *RF Doc. 1 at 55.*

Det. Dillmann testified that Ms. Carnesi's "daughter brought her a flashlight and she took the flashlight and looked at both pictures, picked up the photograph of Mr. Flank and handed it to me and begin crying. Once she stopped crying she told me that this was positively the man who had shot and killed Mr. Carnesi." *RF Doc. 1 at 25.* Det. Dillmann testified that he did not "do anything to influence her to set her up to pick out a picture" and was "positive" that neither he nor anybody else "indicate[d] in anyway that [he] wanted her to pick out a particular photograph." *RF Doc. 1 at 23, 26.*

Ms. Carnesi's undisclosed grand jury testimony from a few weeks after the identification procedure contradicts her trial testimony. On that occasion, she testified that:

- The photo array contained five photographs, rather than the six she described at trial. *RF Ex. 2 at 4.*
- That she asked for the flashlight because she "want[ed] to make sure it's him if it's here," rather than being already "sure this is the man", as she testified at trial. *RF Ex. 2 at 4-5.*
- That, after using the flashlight, she picked up Mr. Flank's photo that showed no blemish but pointed out that the perpetrator had a "white blotch" on his face and then Det. Dillmann shook his head and said, "[t]hat's him," rather than Det. Dillmann doing nothing to influence her, as they both testified at trial. *RF Ex. 2 at 5.*
- That Ms. Carnesi then rationalized her choice by incorrectly assuming that Mr. Flank had a blemish that was not shown in the photo. *RF Ex. 2 at 5.*

This information was favorable to Mr. Flank as impeachment of Ms. Carnesi and Det. Dillmann's testimony about the identification procedure and as evidence challenging the admissibility and reliability of the identification.

## **2. Ms. Carnesi's Vision and Opportunity to View the Perpetrator**

Ms. Carnesi testified at trial that she was standing by her car during the crime (i.e. face-to-face with the perpetrator) and identified him from his face. *RF Doc. 1 at 48, 75.* She also testified

that she had “20/20” vision with the glasses that she was wearing at the time of the crime. *RF Doc. 1 at 43*.

The undisclosed incident report, supplemental report, and daily report from the day of the crime all document that Mrs. Carnesi stated that she was sitting in her car during the crime, so was not standing face-to-face with the perpetrator. *RF Ex. 1 at 6; RF Ex. 3 at 3-4; RF Ex. 5 at 1*. The undisclosed grand jury testimony includes Ms. Carnesi testifying “I don’t see too well, you know, to drive at night.” *RF Ex. 2 at 1*. Evidence impeaching Ms. Carnesi’s position to observe the perpetrator and her eyesight is favorable to Mr. Flanks.

### **3. The Perpetrator’s Appearance**

Det. Dillmann testified that Ms. Carnesi told him the perpetrator “had a small mustache.” *RF Doc. 1 at 20-21*. Det. Dillmann testified on cross-examination that the only “facial characteristic” that Ms. Carnesi described was the mustache. *RF Doc. 1 at 29-30*. He testified “I asked her if there was any facial hair or anything on his face other than the mustache that she could remember and she told me no.” *RF Doc. 1 at 30*.

The undisclosed grand jury testimony reveals that, during the identification procedure that Det. Dillmann administered, Ms. Carnesi stated, “I remember one thing about this man. He had a little white blotch on the side of his cheek, a little white mark, like discolored looking.” *RF Ex. 2 at 5*. Further, Det. Dillmann’s daily report from the day of the crime records Ms. Carnesi reporting that the perpetrator had a “light mustache” rather than a “small mustache.” *RF Ex. 5 at 1*. These undisclosed details impeach the identification and exculpate Mr. Flanks, who has no blemishes on his face and had a mustache that was not light. *RF Doc. 8; RF Doc. 9*.

### **4. The Perpetrator’s Car’s Appearance**

Ms. Carnesi testified that a photo of the 1982 Chevy Citation Mr. Flanks was arrested in looked “exactly like” the car used by the perpetrator in 1983. *RF Doc. 1 at 49*. Det. Dillmann testified that Ms. Carnesi described a “late model automobile” to him on the day of the crime. *RF Doc. 1 at 21*.

In Ms. Carnesi’s undisclosed grand jury testimony, she testified that “it was an old car.” *RF Ex. 2 at 4*. Det. Dillmann’s daily report from the day of the crime describes the car as being “unknown make and model” and has no mention of it being late model. *RF Ex. 5 at 1*. Det. Dillmann’s daily report of the murder and other similar robberies in the area describes the perpetrator as driving an “old” vehicle. *RF Ex. 6 at 1*. This is favorable to Mr. Flanks as impeaching the State’s witnesses and demonstrating that the car in which he was arrested did not match the description of the car used by the perpetrator.

## **5. The Detective Altering Information**

There are several inconsistencies between Det. Dillmann's initial documentation and supplemental report that are apparent from documents in the District Attorney's Office's File. Dillmann's supplemental reports that the NOPD's firearm comparison was completed after Ms. Carnesi made her identification. *RF Ex. 3 at 6*. Dillmann's daily report from that day states that it was completed before Ms. Carnesi made her identification. *RF Ex. 14*. Dillmann's supplemental report, written after Mr. Flanks was arrested with his brother's chrome plated handgun, describes the perpetrator's gun as a "crome [sic] colored handgun." *RF Ex. 3 at 5*. One of Dillmann's daily reports from before Mr. Flanks' arrest describes the perpetrator's gun as a "nickel plated automatic." *RF Ex. 6*. Dillmann's supplemental report, written after Mr. Flanks was arrested with a small thick mustache, describes the perpetrator as having a small mustache. *RF Ex. 3 at 4*. One of Dillmann's earlier daily reports describes the perpetrator as having a "light mustache." *RF Ex. 5*. These changes that align the evidence with the arrested suspect were favorable as impeachment of Det. Dillmann and the quality of his investigation.

## **6. The Victim's Actions**

Ms. Carnesi testified that her husband was shot after he took a "step backward" away from the perpetrator. *RD Doc. 1 at 41*. This was evidence that the shooting was intentional and the perpetrator was guilty of first-degree murder. The undisclosed incident report and supplemental report each document Ms. Carnesi stating that Mr. Carnesi "grabbed" the perpetrator before he was shot. *RF Ex. 1 at 6*; *RF Ex. 3 at 3*. This was favorable to the defense, as it could have been used to argue that the shooting was unintentional and so, at most, second-degree murder. More importantly for Mr. Flanks, who is entirely innocent of the murder, it could have been used to show the malleability of Ms. Carnesi's account.

## **7. Possible Other Evidence**

Beyond the six categories of undisclosed evidence that Mr. Williams was aware of and did not disclose, there may have been additional undisclosed favorable evidence of which Mr. Williams was aware. Additional withheld evidence that did not come from the DA file on this case was presented by Mr. Flanks. *RF 2022 – 11.14 Joint Agreement at 8-9*.

In addition, during the hearing at which Mr. Flanks was exonerated, counsel for the State revealed for the first time that the State had learned during its reinvestigation of the case that "the Carnesi family was never told about the ballistic test [establishing that the gun that Mr. Flanks was

arrested with was not the murder weapon]. In fact, during the course of our joint reinvestigation, the State learned that the family was told that the gun was a match and was lost so it could not be used in the second trial.” *RF 2022 – 11.17 Transcript at 7*. It is likely that Mr. Williams was involved in the misinformation provided to the victim’s family given his role in the case. This improper action was favorable to Mr. Flanks. It impeaches the quality of the investigation and prosecution. It also could have been used to show that the State was trying to influence Ms. Carnesi’s confidence that Mr. Flanks was the perpetrator by falsely telling her that there was additional inculpatory evidence.

**D. James Williams failed to exercise candor to the tribunal.**

Mr. Williams made false statements in filings and arguments and failed to correct false testimony. This constitutes a violation of Rules of Professional Conduct Rules 3.3(a) and 8.4.

**1. James Williams’ False Discovery Responses**

Defense counsel asked if the State had “papers, documents, photographs, tangible objects, . . . [or] copies” that were “favorable to the defendant and which are material and relevant to the issue of guilt or innocence” and, on August 22, 1984, was told “no” by Mr. Williams. *RF Doc. 2 at 3; RF Doc. 4 at 1*. Defense counsel asked if the State had “in its possession any evidence materially favorable to the defendant” and, on August 22, 1984, was told by ADA Williams that there was “none.” *RF Doc. 2 at 4; RF Doc. 4 at 1*. These responses were false. All the favorable evidence detailed on pages 8 to 11 of this memorandum is contained in the district attorney’s file and is documented by documents that pre-date August 22, 1984.

**2. James Williams’ Failure to Correct False Testimony**

As detailed above, on pages 8 to 11, there were multiple instances of false testimony by Ms. Carnesi and Det. Dillmann at Mr. Flanks’ second trial that Mr. Williams allowed to go uncorrected. While this false testimony is not a reflection of Ms. Carnesi’s character, she had suffered a horrific and traumatic experience and was vulnerable to law enforcement manipulation, the failure to correct her testimony is additional misconduct by Mr. Williams.

**3. James Williams’ Likely Other Falsehoods**

Complainant does not have transcripts of Mr. Flanks' first trial, at which Mr. Williams was lead counsel, or the arguments at his second trial.<sup>4</sup> Given Mr. Williams' non-disclosures and failures to correct false testimony during the transcribed portion of the second trial, it is likely that Mr. Williams made false statements and failed to correct false testimony during the untranscribed proceedings.

**E. James Williams likely failed to exercise candor to the victim's family.**

As detailed above on page 11 to 12, the State falsely told the Carnesi family that the reason it was not presenting the gun seized from Mr. Flanks at the second trial was because the evidence was lost. In fact, it was because the ATF had determined that the gun was not the murder weapon. If Mr. Williams was involved in this deception, as is likely given his role in and history with the case, then this constituted "a false statement of material fact or law to a third person" in violation of Rules of Professional Conduct Rules 4.1(a) and 8.4.

**IV. ODC should also investigate the nine other James Williams trials from this period with discovery violations.**

**A. Jerry Davis and Raymond Flanks' cases are part of a pattern of misconduct.**

Mr. Williams' misconduct in Mr. Davis and Mr. Flanks' case falls within a run of trials in which the State committed discovery violations. Mr. Williams was a trial prosecutor in eleven of these cases and likely was in a twelfth. The timeline is:

- |                         |   |
|-------------------------|---|
| 1. January 30-31, 1984  | Jerry Davis's death penalty trial for first-degree murder.  |
| 2. August 28-29, 1984   | Raymond Flanks' first death penalty trial for first-degree murder   |
| 3. November 26-27, 1984 | Curtis Kyles' first death penalty trial for first-degree murder   |
| 4. December 6-8, 1984   | Curtis Kyles' second death penalty trial for first-degree murder  |
| 5. April 12, 1985       | John Thompson's trial for attempted armed robbery   |
| 6. May 6-8, 1985        | John Thompson's death penalty trial for first-degree murder   |
| 7. May 14-15, 1985      | Raymond Flanks' second death penalty trial for first-degree murder  |
| 8. August 13-14, 1985   | John Williams' trial for bribery of sports participants and conspiracy to commit bribery of sports participants |

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<sup>4</sup> The exception to this is Mr. Flanks' brother's testimony from the first trial, which has previously been transcribed.

9. May 13-15, 1986 Jerome Smith's death penalty trial for first-degree murder
10. January 1987 Ricky Warner's first death penalty trial for first-degree murder<sup>5</sup>
11. July 21-22, 1987 Ricky Warner's second death penalty trial for first-degree murder
12. July 25, 1989 Herman Evans' trial for second-degree murder

At nine of these trials, Mr. Williams sought the death penalty.

In addition to these nine capital trials with discovery violations, Mr. Williams has also been found to have used wrongful means to have two other men sentenced to death. In May 1986, he secured a death sentence against Norvell Smith. *JD Ex. 46*. The Louisiana Supreme Court reversed this conviction and found that the prosecution had "made several highly improper arguments to the jury." *State v. Smith*, 554 So. 2d 676, 680-82 (La. 1989). In August 1996, Mr. Williams secured a death sentence against Allen Snyder. *Snyder v. Louisiana*, 552 U.S. 472, 475 (2008). The U.S. Supreme Court reversed this conviction due to use of a peremptory strikes "motivated in substantial part by [racially] discriminatory intent." *Id.* at 485. The finding of discriminatory intent is notable given that every defendant discussed in this memorandum was Black.

Mr. Williams' documented personal interest in executions is consistent with this pattern of cases. Mr. Williams kept a working toy electric chair in his office. *JD Ex. 43 at 251, 257-59, 261; JD Ex. 47 at 97; JD Ex. 48 at 51*. Mr. Williams taped photos of people he had sentenced to death to this electric chair, including Curtis Kyles and John Thompson. *JD Ex. 43 at 255, 257; JD Ex. 47 at 97*. He asked the jury at Jerry Davis's trial "to return a verdict, which would lead to this man being electrocuted, and that's what we plan to do." *JD Ex. 64 at 144*. He told John Thompson during one of his trials, "I'm going to fry you. You will die in the electric chair." *Other Doc. 1 at 101*. He is quoted as saying the following:

If I get you condemned, it's personal. It didn't happen because of some trick in the law, some exigency, some pressure that had been loaded up in the community of the media to make me prosecute you for a death sentence. It happened because I meant it to, and I want you to know it, in the worst way. When you finally go off, if you ever do, I'm going to be sitting right across that window while you're lying on the gurney. I want to be the last face you'll ever see.

*JD Ex. 48 at 51*.

Given the proof of Mr. Williams' misconduct in Mr. Davis and Mr. Flanks' cases and the pattern of discovery violations and prosecutorial misconduct in the other cases, I request that—

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<sup>5</sup> I do not have documentation of who the trial prosecutors were at Mr. Warner's first trial, but Mr. Williams was a prosecutor at the second trial.

consistent with its Rule XIX§(4)(B)(2) duty to investigate misconduct—the Office of Disciplinary Counsel investigate all the cases included in this section to determine if Mr. Williams committed additional acts of professional misconduct in these or any other cases. I am able to provide some additional information about the discovery violation cases as follows.

### **B. The Curtis Kyles Case**

Mr. Williams was a trial prosecutor at Mr. Kyles’s November 1984 capital murder trial, which resulted in a hung jury, and December 1984 capital murder trial, at which Mr. Kyles was sentenced to death. *JD Ex. 44*. After the second trial, the U.S. Supreme Court found that the State had unlawfully withheld evidence. *See Kyles v. Whitley*, 514 U.S. 419 (1993) (detailing withheld evidence). The opinion does not specify which items of withheld evidence were personally known to Mr. Williams, but at least some of it was known to the prosecution team. *Id.* at 427, 429-30 (describing favorable information in undisclosed statement to prosecutor). Mr. Kyles’s case ultimately ended with the State dismissing charges against him. *Ex. 44*. He had spent 13 ½ years in prison.

### **C. The John Thompson Cases**

Mr. Williams was a trial prosecutor at Mr. Thompson’s April 1984 attempted armed robbery trial, at which Mr. Thompson was sentenced to 49 ½ years in prison. *Connick v. Thompson*, 563 U.S. 51, 54-55, 88 (2011). Mr. Williams was a trial prosecutor at Mr. Thompson’s May 1985 capital murder trial, at which the state used the attempted armed robbery conviction and Mr. Thompson was sentenced to death. *Id.* at 55. Mr. Williams obtained Mr. Thompson’s death sentence the week before Mr. Flanks was wrongfully convicted.

Mr. Thompson’s armed robbery conviction was vacated and the State dismissed the charges in 1999 after the discovery of blood typing evidence that “conclusively proved that the relator was not the perpetrator of that offense.” *State v. Thompson*, 825 So. 2d 552, 553 (La. App. 4 Cir. 2002). Prior to trial, Mr. Whittaker placed the “lab report [that] conclusively identified the perpetrator’s blood type” on Mr. Williams’ desk. *Connick*, 563 U.S. at 84 (Ginsburg, J. dissenting).

Mr. Thompson’s first-degree murder conviction was vacated due to the effect of the wrongful attempted armed robbery conviction on his murder trial. *Thompson*, 825 So. 2d 552. Additional evidence withheld at the murder trial was also discovered. *Connick*, 563 U.S. at 85-87, 90 (Ginsburg, J. dissenting) (detailing withheld evidence). Mr. Thompson was retried for murder, but acquitted after 35 minutes of deliberations. *Id.* at 90. He had spent 18 ½ years in prison.

At some point after June 1999, the Office of Disciplinary Counsel opened an investigation of Mr. Williams related to some aspect of his role in Mr. Thompson’s case. *JD Ex. 43 at 79-80*.

ODC did not file disciplinary charges and closed its investigation without interviewing Mr. Williams. *JD Ex. 43 at 80-81*.

#### **D. The John Williams Case**

Mr. Williams was a trial prosecutor at John Williams' August 1985 trial for bribery of sports participants and conspiracy to commit bribery of sports participants. The trial resulted in a mistrial due to discovery violations. *JD Ex. 45*. After reviewing the record, the court of appeal stated that the trial judge's "orders were ignored, or even intentionally disregarded, by the State on at least three occasions." *State v. Williams*, 478 So. 2d 983, 990 (La. App. 4 Cir. 1985). One judge went further and stated:

[I]t must be noted that the conduct of the District Attorney's Office in this case has been deplorable. On at least three occasions the State deliberately disobeyed the orders of the trial court. Such conduct casts a shadow on the integrity of our system of justice. The conduct of the prosecutor should be straightforward, honest, and above reproach. Instead, this case presents the public with a picture of prosecutorial conduct which is unacceptable under any standard of moral or legal ethics.

*Id.* at 992 (Byrnes, J. concurring in part and dissenting in part). John Williams was acquitted at his retrial.

#### **E. The Jerome Smith Case**

Mr. Williams was a trial prosecutor at Mr. Smith's May 1986 first-degree murder trial. *Other Doc. 2 at 4*. Mr. Smith was convicted and sentenced to life without parole. *Other Doc. 2 at 9*. Prior to trial, Mr. Williams maintained that there was "no Brady material." *Other Doc. 2 at 10*. Mr. Smith presented multiple pieces of favorable evidence that had been withheld by the State in support of a *Brady* claim. *Other Doc. 2 at 10-18*. On December 21, 2023, due to his mother's failing health, Mr. Smith accepted an *Alford* plea to manslaughter in which he maintained his innocence and secured his immediate release. *Other Doc. 3*. He had spent 38 years in prison.

#### **F. The Ricky Warner Case**



Mr. Williams was a trial prosecutor at Mr. Warner's July 1987 first-degree murder trial.<sup>6</sup> *Other Doc. 4 at 15*. Mr. Warner was convicted and sentence to life without parole. *Other Doc. 4 at 4*. Mr. Warner presented prosecutorial case notes withheld by the State in support of a *Brady* claim. *Other Doc. 4 at 6, 51*. On November 17, 2022, Mr. Warner accepted a plea and secured his immediate release.<sup>7</sup> He had served 37 years in prison.

#### **G. The Herman Evans Case**

Mr. Williams was a trial prosecutor at Mr. Evans' July 1989 second-degree murder trial. *Other Doc. 5 at 3, 19*. Mr. Evans was convicted and sentenced to life without parole. *Other Doc. 5 at 10*. Mr. Evans presented documents obtained from the district attorney office's file. *Other Doc. 5 at 6-8*. These were offered in support of *Brady*, *Napue*, and factual innocence claims. *Other Doc. 5 at 10-15*. On July 3, 2024, Mr. Evans accepted an *Alford* plea to obstruction of justice in which he maintained his innocence and secured his immediate release. *Other Doc. 6 at 2-3*. He had served 35 years in prison.

#### **V. Conclusion**

Based on the evidence presented, I request that the Office of Disciplinary Counsel prosecute Mr. Williams for his misconduct in Mr. Davis and Mr. Flanks' cases and promptly investigate the other cases at which he was a trial prosecutor for further acts of misconduct.

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<sup>6</sup> Given his role in the case and the District Attorney's Office, Mr. Williams was also presumably a prosecutor at Mr. Warner's January 1987 first-degree murder trial that resulted in a hung jury. *Other Doc. 4 at 3, 5*.

<sup>7</sup> This case is too old for the online docket. I am aware of this resolution because I was present in court representing Mr. Flanks on November 17, 2022.

## Appendix

### Explanation of Citation to Supporting Documents

Record Citations in this memorandum are to the documents provided on the disk of supporting materials.

<b>Citation Format</b>	<b>Folder</b>	<b>Description</b>
<i>JD [Date] [Description]</i>	Jerry Davis Case Materials\Jerry Davis PCR Filings and Transcripts	Court filings and transcripts from when IPNO began representing Mr. Davis until his exoneration
<i>JD Ex. [Number]</i>	Jerry Davis Case Materials\Jerry Davis Exhibits	Exhibits filed with the court from when IPNO began representing Mr. Davis until his exoneration
<i>JD Doc. [Number]</i>	Jerry Davis Case Materials\Jerry Davis Additional Docs	Additional documents related to Mr. Williams' role in Mr. Davis's case
<i>RF [Date] [Description]</i>	Raymond Flanks Case Materials\Raymond Flanks PCR Filings and Transcript	Court filings and transcripts from when IPNO began representing Mr. Flanks until his exoneration
<i>RF Ex. [Number]</i>	Raymond Flanks Case Materials\Raymond Flanks Exhibits	Exhibits filed with the court from when IPNO began representing Mr. Flanks until his exoneration
<i>RF Doc. [Number]</i>	Raymond Flanks Case Materials\Raymond Flanks Additional Docs	Additional documents related to Mr. Williams' role in Mr. Flanks' case
<i>Other Doc. [Number]</i>	Other Case Documents	Documents related to other cases in which Mr. Williams was a trial prosecutor