

*Independent Investigation of  
State v. Richard E. Glossip*

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**Final Report\***  
**Reed Smith LLP**

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June 7, 2022

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## Report

This Report was prepared by the law firm of Reed Smith LLP's Independent Investigation Team at the request of the Ad Hoc Committee regarding Richard Glossip comprised of members from the Oklahoma Legislature. Reed Smith obtained assistance on certain Oklahoma legal issues from the law firm Crowe & Dunlevy. The findings and recommendations contained in this Report are exclusively those of the Independent Investigation Team and do not represent the judgments, opinions, or policies of the Ad Hoc Committee, the Oklahoma Legislature, or any other agency, law firm, or organization.



## I. Oklahoma Legislators' Request For An Investigation

For more than 20 years, concerns have been raised regarding the integrity of Richard Glossip's conviction and death sentence. In June 2021, 34 Oklahoma state legislators, including 28 Republicans, implored the Oklahoma Governor and Pardon and Parole Board to conduct an investigation into *State of Oklahoma v. Richard Eugene Glossip* ("*State v. Glossip*").<sup>1</sup> No official investigation was undertaken.<sup>2</sup> Some of these lawmakers subsequently formed an Ad Hoc Legislative Committee regarding the Richard Glossip case ("*Legislative Committee*").<sup>3</sup>

Accordingly, in February 2022, the Legislative Committee requested that Reed Smith undertake an independent investigation of the Glossip case and all related documentation, and provide a report of findings and recommendations, if warranted.<sup>4</sup> Reed Smith has had no prior involvement with this case. In addition, our investigation and Report extend well beyond the judicial record in the case.

Finally, we would be remiss if we did not recognize the loss to the Van Treese family and the tragedy that befell Mr. Van Treese.

### The Investigation

Our independent investigation spanned nearly four months with a team of over 30 attorneys, three investigators, and two paralegals. The team included attorneys with both prosecutorial and criminal defense experience. Over 3,000 hours were spent pro bono (at no cost). In addition, we had the assistance of the Crowe & Dunlevy law firm with respect to various Oklahoma legal issues.

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<sup>1</sup> <https://kfor.com/news/local/34-oklahoma-lawmakers-call-for-new-investigation-into-death-row-inmates-conviction/>.

<sup>2</sup> The Oklahoma Attorney General may have undertaken an informal review of the case record but we are unaware of any report of findings, which case materials were reviewed, or whether any witnesses were interviewed. As we explain in this Report, a simple review of case file materials would not be sufficient to evaluate the case.

<sup>3</sup> This Ad Hoc Committee includes Representatives Kevin McDugle, J.J. Humphrey, Gary Mize, and Senators Blake "Cowboy" Stephens, and David Bullard.

<sup>4</sup> Formal Request from Representative Kevin McDugle and the Oklahoma Legislature's Ad Hoc Committee, February 18, 2022.

The independent investigation included the following:

- Reviewed more than 12,234 documents with approximately 146,168 pages.
- Reached out to 72 witnesses (law enforcement and civilian), 11 jurors from the retrial, and two experts.
- Interviewed 36 witnesses (law enforcement and civilian), and seven jurors, two experts, several members of the media who had knowledge of the case, and conducted a 3.5 hour interview of Richard Glossip in the Oklahoma State Penitentiary.
- Reached out to the Van Treese family members (Donna Van Treese and Kenneth Van Treese) to provide them an opportunity to be heard. Neither responded to our attempts to make contact. We respect their privacy and decision to not speak with us.
- Corresponded with Justin Sneed, who is housed in Joe Harp Penitentiary, to afford him an opportunity to be heard. We followed up with Sneed's family and Department of Corrections personnel. To date, while Sneed has acknowledged receipt of our letter through a family member, we have not been granted an interview.
- Contacted the prosecution and defense lawyers from both trials, as well as the post-conviction appeals defense lawyers. To date, two prosecutors and four defense counsel have agreed to be interviewed.
- Requested numerous records and evidence from the Municipal Counselor's Office for the City of Oklahoma City, the Oklahoma City Police Department, the Oklahoma County District Attorney's Office, and obtained files from the Oklahoma County Court's clerk.
- Obtained new documentation in connection with the case, and spoke to witnesses who had never been interviewed, including by the police, prosecution, or Glossip's defense teams.

The Independent Investigation Team also contacted Oklahoma County District Attorney David Prater, as well as Oklahoma Attorney General John O'Connor, seeking relevant records and evidence that are only in the State's possession, custody, and/or control and providing both law enforcement agencies an opportunity to be heard. District Attorney Prater initially sent a written response declining to turn over any requested materials citing enforcement/investigative file privileges and referred us to other governmental agencies. We renewed our request to District Attorney Prater for certain materials and have recently learned that he requested former Assistant District Attorney Gary Ackley<sup>5</sup> to come out of retirement and assist with looking for the Sinclair Gas Station (discussed below) surveillance videotape containing footage from the night of the murder.<sup>6</sup> We have received no response to date from the Oklahoma Attorney General.

We have received cooperation and helpful information from certain members of the Oklahoma City Police Department, although others have declined to cooperate, such as Detective Robert ("Bob") Bemo, the lead homicide detective on the case.

Because 25 years have transpired since the 1997 murder, a number of fact witnesses are deceased. It should also be noted that Reed Smith, unlike the Attorney General or the District Attorney, possesses no subpoena power and, thus, all witnesses who agreed to speak with us did so voluntarily. Some individuals declined to be interviewed.

We thank everyone for their time and willingness to help in this investigation.<sup>7</sup>

## **II. Executive Summary Of Investigation Findings**

During the early morning hours of January 7, 1997, Justin Sneed,<sup>8</sup> a 19-year-old drug user with a history of violence and a prior criminal record, carried a baseball bat into an Oklahoma City motel room where 54-year-old Barry Van Treese was sleeping. It was common knowledge that Mr. Van Treese, who owned the motel, kept substantial cash with him.<sup>9</sup> During the ensuing

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<sup>5</sup> Former Assistant District Attorney Ackley was one of two prosecutors from the Oklahoma County District Attorney's Office who represented the State in Glossip's 2004 retrial. Former Assistant District Attorney Connie Smothermon was the lead prosecutor.

<sup>6</sup> See Section VIII.B.1. for more details.

<sup>7</sup> Given that a number of interview requests and other requests for information remain outstanding, we reserve the discretion to supplement this Report if we receive material new information or if we otherwise deem it appropriate.

<sup>8</sup> See Appendix 1 for a quick reference guide of key witnesses.

<sup>9</sup> See Section XVIII.A.4.b. for individuals who knew that Mr. Van Treese carried large amounts of cash on him.

struggle, Sneed struck Mr. Van Treese multiple times with the baseball bat, knocking him unconscious and causing his death. Sneed then stole cash from Mr. Van Treese's vehicle. Sneed alone moved Mr. Van Treese's vehicle to a nearby credit union parking lot. When police later arrived at the scene, and before the body was found, Sneed stuffed his blood-soaked clothes<sup>10</sup> into a popcorn canister, hid them in the motel's laundry room,<sup>11</sup> and fled the scene.

The State of Oklahoma subsequently apprehended and charged Sneed with capital murder, which carries a death sentence. But Sneed obtained a life sentence guilty plea deal by agreeing to implicate a third party in the murder's planning. The third party was Richard Glossip. The Oklahoma Court of Criminal Appeals described the State's case against Glossip as relying "entirely" on the testimony of Sneed.<sup>12</sup>

Glossip, the Best Budget Inn Oklahoma City motel ("Best Budget Inn") manager, was 33 years old at the time. Glossip did not have a significant criminal history.<sup>13</sup> Starting in 1995 (two years prior to the murder), Glossip worked and lived at the Best Budget Inn Oklahoma City motel, where he routinely handled thousands of dollars of cash receipts from motel guests each week. There is no physical or forensic evidence, such as fingerprints or DNA, linking Glossip to Sneed's brutal murder of Mr. Van Treese. Further, no person, other than Sneed, testified that Glossip had anything to do with Mr. Van Treese's murder.

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<sup>10</sup> There have been reports that there were two sets of bloody clothes, implying there was perhaps another person in room 102. Photographs of the bloody clothes, however, reveal that the blood splatter on both sets is nearly identical, making it almost impossible for two separate people to have the same blood patterns staining the clothes. We think it is more likely that Sneed was wearing sweat pants and a second t-shirt under his jeans and top. According to the weather history for January 6, 1997, the high temperature was 39 degrees Fahrenheit, and the low temperature was 26.6 degrees Fahrenheit. See State's Exhibits 20 and 21; see also <https://www.almanac.com/weather/history/OK/Oklahoma%20City/1997-01-06>

<sup>11</sup> January 14, 1997 Police Interrogation of J. Sneed at pp. 52:22-25, 53:2-8, 54:16-25, 55:1-7, 56:12-19. "I still had them in my room when the cops found Barry's car sitting in the back parking lot...And I walked them to the laundry room and stuck them up on the top shelf underneath like some old curtains and stuff so they think it's all curtains that are up there."

<sup>12</sup> *Frederick v. State*, 400 P.3d 786, 828 (Okla. Crim. App. 2017).

<sup>13</sup> When he was 18 years old, Glossip pled guilty to two disorderly conduct citations in Illinois and paid a fine. Apart from these and some minor traffic infractions in Illinois, his record was clean prior to January 1997. Records indicate that Glossip dropped out of high school and had been gainfully employed since he was 19 years old. See Oklahoma Department of Corrections District VIII Probation and Parole, Pre-Sentence Investigation Report, July 20, 1998 at p. 4.

Relying primarily on Sneed's testimony that it was actually Glossip who had encouraged and planned this murder, an Oklahoma jury convicted Glossip of "murder-for-hire"<sup>14</sup> and sentenced him to death. The Oklahoma Court of Criminal Appeals subsequently upheld this result by a vote of 3-2.<sup>15</sup> United States District Court Judge Joe Heaton described the case as follows: "The State's case against petitioner hinged on the testimony of one witness, Justin Sneed, petitioner's accomplice, who received a life sentence in exchange for this testimony. Unlike many cases in which the death penalty has been imposed, the evidence of petitioner's guilt was not overwhelming."<sup>16</sup>

In the subsequent years, Glossip has come within hours of execution (and had his last meal) three times. He has always professed his innocence of the murder charge. Meanwhile, Sneed continues to serve his life sentence.

### **Questions Presented**

- 1) Was the verdict from Glossip's second trial reliable in light of all facts and evidence now known; and
- 2) Does this investigation suggest any recommendations that would improve Oklahoma's criminal justice system?

As to question 1, fundamental concerns and new information revealed by this investigation cast grave doubt as to the integrity of Glossip's murder conviction and death sentence.

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<sup>14</sup> The sole death penalty aggravator the jury found in Glossip's case under Oklahoma statute was murder for remuneration. On October 2003, the State amended its Bill of Particulars alleging that Glossip "committed the murder for remuneration or the promise of remuneration or employed another to commit the murder for remuneration or the promise of remuneration." Amended Bill of Particulars in re Punishment, at p. 2, Filed October 20, 2003. The State also unsuccessfully sought two other aggravators: (1) the murder was especially heinous, atrocious, or cruel (which later was dismissed), and (2) the existence of a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society (which the jury did not find Glossip to be). *Id.*

<sup>15</sup> *Glossip v. State*, 157 P.3d 143 (Okla. Crim. App. 2007).

<sup>16</sup> *Glossip v. State*, Order, ECF Doc. 66, Case No. 5:08-cv-00326-HE (W.D. OK, Sept. 29, 2010).

These concerns include:

- 1) The 1999 destruction of several pieces of key physical evidence as well as potentially exculpatory financial documents, before Glossip's retrial, by the Oklahoma City Police Department at the direction of the Oklahoma County District Attorney's Office. This investigation confirmed that a 28-year veteran of the Oklahoma City Police Department was specifically requested by the Oklahoma County District Attorney's Office to destroy a box of evidence containing 10 items. Due to this Detective's statements and documentation obtained from the Oklahoma Police Department, the destruction of evidence appears deliberate and not a mere accident. We have learned that the evidence destruction was in violation of a long-standing agreement in place since the 1990s between the Police Department and the District Attorney's Office that evidence in a capital murder case is never to be destroyed.<sup>17</sup>

Former Assistant District Attorney Gary Ackley stated that "[t]he Glossip deal horrifies me. I have no idea how something like this could happen. No idea why it would happen. In my admittedly faulty recollection, that was well after we had reemphasized this stuff couldn't get destroyed."<sup>18</sup> Other critical evidence appears to have been lost (*i.e.*, a surveillance video from the nearby Sinclair Gas Station from the night of the murder) or released to the Van Treese family even before murder charges had been filed (*i.e.*, Mr. Van Treese's vehicle that he was driving the night of the murder, and the \$23,100 found in Mr. Van Treese's trunk).

- 2) Intentional contamination by the lead homicide detectives of Sneed's interrogation, that appears to have signaled to Sneed to implicate Glossip as involved and the mastermind of the murder, rather than to gather information from Sneed of what happened regardless of whether or not it fit a particular hypothesis. Notably, Glossip (and only Glossip), was mentioned by detectives six

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<sup>17</sup> June 2022 Reed Smith Interview of Former Assistant District Attorney Gary Ackley.

<sup>18</sup> *Id.* We have not seen any evidence to suggest that Ackley was aware of the destruction of evidence before Glossip's retrial. As he indicated, he came on to assist Connie Smothermon shortly before the trial was set to begin. However, we have located evidence that Smothermon was aware of the destruction of evidence as of 2003. See Section VIII.B1. for more details.

times in the first twenty minutes of the interrogation before Sneed adopted their hypothesis that Glossip was not only involved in the murder but hired Sneed to kill Mr. Van Treese. An example of the police contamination is set forth below:<sup>19</sup>

<p>Well, they've made you the scapegoat in this. You know, everybody is saying you're the one that did this and you did it by yourself and I don't believe that.</p> <p>You know Rich is under arrest, don't you?</p> <p>BY MR. SNEED: No. I didn't know that.</p> <p>BY MR. BEMO: Yeah. He's under arrest, too.</p> <p>BY MR. SNEED: Okay.</p> <p>BY MR. BEMO: So he's the one -- he's putting it on you the worst.</p>	<p>BY MR. BEMO: And now Rich is trying to save himself by saying that you're in this by yourself, that it was all your doing and you're the one that -- that did the homicide, it was you, that you came to him and told him about it; is that true?</p> <p>BY MR. SNEED: (Shakes head)</p> <p>BY MR. COOK: Okay. Why don't you straighten this out then.</p>
--	---

This contamination by police, which the jury never heard about because defense counsel did not play the Sneed interrogation tape,<sup>20</sup> raises considerable doubts about the reliability of Sneed's statements that Glossip was involved in the murder.<sup>21</sup> Multiple jurors expressed that they wished they had seen the video of Sneed's interrogation.<sup>22</sup> Since Sneed's testimony was the sole evidence that Glossip planned the murder and hired Sneed to carry it out, Glossip's conviction appears to be significantly tainted. Without Sneed's statements to police and subsequent testimony, there would have never been a murder prosecution of Glossip, as explained by the prosecution: "[I]f the jury didn't believe that testimony that came direct to their ears from Justin Sneed, there's no way they would have convicted Richard Glossip."<sup>23</sup>

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<sup>19</sup> January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 17:9-21.

<sup>20</sup> The Oklahoma Criminal Court of Appeals vacated Glossip's first trial for ineffective assistance of counsel and cited defense counsel's failure to play the Sneed interrogation video for the jury to consider as one of the primary deficiencies. *State v. Glossip*, 2001 OK CR 21, 29 P.3d 597, 600 ("This claim is the most egregious of the ineffectiveness claims. Specifically, this subclaim relates to trial counsel failure to utilize the videotaped interview of Justin Sneed and his failure to utilize the record of Sneed's competency evaluation for impeachment purposes.")

<sup>21</sup> See Section VII. for a more detailed analysis of the Detective's contamination of the Sneed interrogation.

<sup>22</sup> See, e.g., March 2022 Reed Smith Interview of Juror No. 7, April 2022 Reed Smith Interview of Juror No 1, April 2022 Reed Smith Interview of Juror No. 8, and March 2022 Reed Smith Interview of Juror No. 12. We have assigned randomized numbers to refer to jurors.

<sup>23</sup> Radical Media Interview with G. Ackley at p. 42 (June 23, 2016).

- 3) A deficient and curtailed police investigation driven by the lead detectives' prematurely formed hypothesis that detracted from finding or looking for evidence of what in fact transpired.<sup>24</sup>
- 4) This investigation's discovery and collection of facts – some altogether newly found – that directly undermine the State's theory of the case and the reliability of the murder conviction. The jury never heard these facts. These include:
  - a) Financial Records that refute the claims of embezzlement<sup>25</sup> and call into question any impending termination of Glossip, the purported motive for murder.
  - b) Evidence showing the unreliability of several of the State's witnesses that it used to corroborate Sneed's testimony. For example:
    - i. Flight and motive evidence was provided at trial by Cliff Everhart. Everhart<sup>26</sup> was under investigation for corruption by the Oklahoma State Bureau of Investigation,<sup>27</sup> and subsequently went to prison in 2005, right after Glossip's second trial, *for making false statements*, among other crimes. Additionally, fellow colleagues at the Oklahoma Indigent Defense

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<sup>24</sup> It should be noted that Detective Bemo's consideration of Glossip as a person of interest was not unfounded due to Glossip's own behavior after the murder. The flaw, however, was that Detective Bemo concluded (on January 8, 1997) that it was solely Glossip and Sneed, and in turn focused and contoured the police investigation to fit only that hypothesis. Detective Bemo does not appear to have remained open to considering other possibilities including that Sneed planned his attack on Mr. Van Treese on his own or that Glossip's actions after the murder could be indications of his involvement as an accessory after the fact, rather than a leader of a murder-for-hire plot. In fact, the physical evidence supports a robbery gone bad conclusion, with Sneed acting alone. See Sections VIII. and IX. for a more detailed analysis on the police investigation shortfalls.

<sup>25</sup> The evidence that could have answered if there was embezzlement or not (*i.e.*, Mr. Van Treese's handwritten deposit book and two receipt books) was destroyed by the State in 1999, before Glossip's retrial. October 28, 1999 Police Report of J. Hogue detailing the items.

<sup>26</sup> Everhart was a former police officer and criminal defense investigator for the OIDS from April 1991 to September 1997. In 1995, Everhart was forced to resign as Binger's Police Chief. <https://www.oklahoman.com/story/news/1996/02/11/town-of-binger-finds-itself-bogged-in-political-mire/62364908007/>. Everhart was also Police Chief in Longdale, Oklahoma. Criminal charges were brought for his misconduct in Longdale. See Section XIII. for more details.

<sup>27</sup> *State of Oklahoma v. Clifford Albert Everhart*, Case No. CM-2003-224, Affidavit of Chuck McArney, Special Agent with the Oklahoma State Bureau of Investigation (filed August 27, 2003); see also *State of Oklahoma v. Clifford Albert Everhart*, Case No. CF-2003-46, Affidavit of Chuck McArney, Special Agent with the Oklahoma State Bureau of Investigation (filed August 27, 2003); see also *State of Oklahoma v. Clifford Albert Everhart*, Case No. CM-2003-225, Affidavit of Chuck McArney, Special Agent with the Oklahoma State Bureau of Investigation (filed August 27, 2003).



System (“OIDS”)<sup>28</sup> voiced concerns internally that Everhart exhibited “character deficiencies including very limited honesty and integrity.”<sup>29</sup> This is particularly troubling given that Everhart was one of the first witnesses to point police in Glossip’s direction and a key State’s witness for its case.

- ii. Misleading lay opinion and hearsay testimony was provided at trial by multiple witnesses going to the heart of the case (*i.e.*, amounting to an improper expression of defendant’s guilt) that interjected into the record gossip and speculation masquerading as credible evidence of corroboration.<sup>30</sup> One example includes the motel’s day desk clerk, Billye Hooper, who knew Sneed for only a couple months, testifying Sneed “would not have done it acting on his own volition.”<sup>31</sup>
- c) The State falsely portrayed Sneed at trial as a meek and non-violent “puppet,” completely dependent on Glossip for his survival and every move. This depiction is seemingly at odds with the undisputed fact that Sneed alone beat Mr. Van Treese with a baseball bat. This fundamental mis-portrayal of Sneed is particularly crucial because Sneed was the sole direct evidence of Glossip being involved with and masterminding the murder. Sneed also told conflicting versions of the events each time he was interviewed by police or defense counsel or gave testimony at Glossip’s first and second trials.<sup>32</sup> These facts, combined with Sneed’s incentive to shift blame to someone else, raise material questions as to the reliability of his testimony.

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<sup>28</sup> Glossip’s defense counsel for the retrial and his direct appeal were also OIDS attorneys. We believe this created a potential conflict of interest.

<sup>29</sup> OIDS Employment Records of Cliff Everhart, Mid-year informal review (April 22, 1994).

<sup>30</sup> See Section XVI. for more analysis of the improper expression of guilt and hearsay testimony in Glossip’s retrial.

<sup>31</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 34: 23-24. No objection was made by defense counsel to this line of questioning despite that the question had no foundation laid, is purely speculative, and goes to the heart of the case.

Q. What is your opinion about, if you have one, about whether or not Justin Sneed would have ever done anything like murder Barry Van Treese without first consulting Richard Glossip?

A. In my opinion, Justin would not have murdered Barry Van Treese, I don’t believe because, for one, he didn’t know the man hardly at all. He probably had no -- very few comments even made together and I wouldn’t seen, in my opinion, why he would have a reason to do such a violent act to someone that he hardly knew. Trial Testimony of B. Hooper at p. 34:10-19.

<sup>32</sup> See Section XVIII.C. for Sneed’s contradictory and ever-changing statements.

- 5) Critical gaps in juror instructions that, based on jury interviews, appear to have caused the jury to misunderstand Oklahoma’s statutory mandate<sup>33</sup> requiring a specific analysis be undertaken to determine whether there is sufficient corroboration of accomplice testimony. The jury’s apparent confusion on this fundamental requirement seems to have been confounded by misleading statements from the prosecutor implying this analysis was optional.<sup>34</sup>
- 6) The Prosecution’s failure to vet the evidence collected by the police and its further distortion of nearly every witness’s testimony to fit its case theory and secure a guilty verdict. The lead prosecutor does not appear to have been skeptical that several witnesses testified to *new* information they never told police (or reversed their testimony from what they previously told police) and instead seemed to justify these discrepancies<sup>35</sup> by lauding herself as a skilled questioner:

“The only thing they can point to is the fact that some of the witnesses told you more than they had ever told anyone before. Well, that’s right on some of these witnesses. I’m not going to apologize for asking more questions than anybody else did before because, you know, that’s me, I’m a questioner.”<sup>36</sup>

Despite the State’s theory that this was a murder for hire, the complete set of facts and objective evidence support that Mr. Van Treese’s murder was most likely a robbery gone bad

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<sup>33</sup> The Oklahoma Court of Criminal Appeals observed that in Glossip’s first trial, “[t]he evidence at trial tending to corroborate Sneed’s testimony was ***extremely weak***. We recognize a conviction cannot be had upon the testimony of an accomplice unless it is ‘corroborated by such other evidence as tends to connect the defendant with the commission of the offense, and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.’” *Glossip v. State*, 21 OK CR 21 at p. 22 (emphasis added). O.S. Supp.2000, Section 742. At Glossip’s clemency hearing, the Oklahoma Attorney General’s Office explained that: “Federal law does not require accomplice corroboration last time I checked. Although the Constitution doesn’t prohibit it, a corroboration is not really something that I recall being taken up in Federal Court. But Oklahoma has that requirement. And we’ve lived with it since probably 1910 when the statutes came through. I mean, this is something that we accept as people, as a government, as the right thing to do.” Oklahoma Assistant Attorney General Seth Branham, Clemency Hearing (October 24, 2014, Transcript part 2 at p. 3)

<sup>34</sup> See Section XIV. for a more detailed analysis.

<sup>35</sup> Former Assistant District Attorney Gary Ackley characterized Best Budget Inn motel housekeeper Jacqueline Williams’ change in testimony as to who told her to not clean the downstairs rooms (Glossip) from her police statement (Sneed) as “an important discrepancy.” June 2022 Reed Smith Interview of G. Ackley. See Section XVII. for additional witnesses that added new details or whose testimony differed from their statements made to police.

<sup>36</sup> Trial 2 State’s Closing, Vol. 15 at p. 153:21-154:2.

with the actual killer, Sneed, looking for help after the fact from his manager and one-time friend, Glossip, rather than a planned murder for hire orchestrated and controlled by Glossip. The lead homicide detective has years later publicly stated his belief that Sneed “probably got a little carried away because he was mad because he got hit. And ... before it was uh, too la – I mean, he ended up killing Barry and didn't, *I don't know that he intended to*, but he did. He beat him pretty good, so.” Yet this does not square with what the prosecution told the jury in Glossip’s second trial:<sup>37</sup>

21	But for Richard Glossip, Justin Sneed would never
22	have killed Barry Van Treese. And you heard that. You
23	heard that the only motive that you have here for the death
24	of Barry Van Treese is Richard Glossip's. You have

Not intending to kill someone and “getting carried away” after being hit, by definition, is not a murder for hire nor is it a planned murder and, had the jury heard this statement from the lead homicide detective, it may well have changed the course of events.

The State’s destruction and loss of key evidence before Glossip’s retrial deprived the defense from using the evidence at trial (and has deprived the defense today of the ability to perform forensic testing using DNA and technology advancements),<sup>38</sup> the tunnel-vision and deficient police investigation, the prosecution’s failure to vet evidence and further distortion of it to fit its flawed narrative, and a cascade of errors and missed opportunities by defense attorneys, fundamentally call into question the fairness of the proceedings and the ultimate reliability of the guilty verdict against Glossip for murder. As Representative McDugle stated

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<sup>37</sup> Trial 2 State’s Closing, Vol. 15 at p. 151:21-22.

<sup>38</sup> Oklahoma statute recognizes there have been substantial improvements in DNA and other technology, and provides for the opportunity to subsequent test to certain eligible individuals. Oklahoma Title 22 Section 1373 is known as the Postconviction DNA Act (“PDNA”) and details the eligibility and procedures for DNA testing post-conviction. The PDNA went into effect November 1, 2013. Section 22-1373.2.A states that “Notwithstanding any other provision of law concerning postconviction relief, a person convicted of a violent felony crime or who has received a sentence of twenty-five (25) years or more and who asserts that he or she did not commit such crime may file a motion in the sentencing court requesting a forensic DNA testing of any biological material secured in the investigation or prosecution attendant to the challenged conviction.” Glossip would fit under such definition.

when requesting this independent investigation, “There is no greater responsibility for an instrument of government than taking a human life. While warranted as part of our criminal law, such a step should only be taken with extra care and review to make sure no innocent person is executed.”<sup>39</sup> We are also deeply troubled by the lack of impartiality exhibited by the Pardon and Parole Board in allowing a former Oklahoma County prosecutor who tried cases with one of Glossip’s prosecutors to vote and be the lead questioner at Glossip’s 2014 clemency hearing.<sup>40</sup>

Based on the findings of this independent investigation, including the State’s destruction of evidence, we conclude that the 2004 trial cannot be relied on to support a murder-for-hire conviction. Nor can it provide a basis for the government to take the life of Richard E. Glossip.

### **III. Summary Of Recommendations**

As to question 2, the following are suggested improvements to the process for implementation of the death penalty in the State of Oklahoma:

- Evidence should not be destroyed in a capital murder case. Implement additional safeguards, such as a specific code in the police records system, to delineate which cases are capital murder cases. No defendant should be executed if such destruction of material or potentially exculpatory evidence has occurred.
- Prior to carrying out a death sentence, require in all cases an independent body to review the conviction to ensure its integrity (especially when there is no forensic evidence tying defendant to the crime, and when truly serious questions regarding the defendant’s guilt are raised, and cases where the defendant had no significant criminal history).
  - The investigation should be conducted as expeditiously as possible after state and federal appeals are exhausted, the body conducting the

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<sup>39</sup> Formal Request from Representative Kevin McDugle and the Oklahoma Legislature’s Ad Hoc Committee, February 18, 2022.

<sup>40</sup> Former Assistant District Attorney Patricia “Patty” High, who served in then-District Attorney Bob Macy’s office as an Assistant District Attorney from 1989 until 2007, and tried cases with former Assistant District Attorney Connie Smothermon, should have recused herself from Glossip’s 2014 clemency hearing. High asked 24 cross-examination type questions of Glossip at his clemency hearing. See Section XXII. for more details; see also [https://www.ok.gov/ppb/Board\\_and\\_Meeting\\_Information/Board\\_Members/index.html](https://www.ok.gov/ppb/Board_and_Meeting_Information/Board_Members/index.html)

independent investigation should have subpoena power, and all of the prosecution personnel should be required to cooperate and provide information to the investigative body. In addition, the Office of the District Attorney who prosecuted the case should be required to open its files without limitations.<sup>41</sup>

- To the extent the police are permitted to release evidence obtained during a homicide investigation, as occurred in the Glossip case for example with the cash found in Mr. Van Treese's trunk in the amount of \$23,100 (some stained with blue dye in this case), the police should be prohibited from releasing such evidence before defense counsel is able to examine it and seek to have it retained for potential later use or testing.
- Engage an expert in the field of interrogations to evaluate police interrogation techniques and make recommendations to safeguard against contamination of interrogations. Such recommendations should be implemented.
- The Oklahoma Indigent Defense System should not be the appellate attorneys for direct appeals/ineffective assistance of counsel claims if OIDS attorneys served as defense counsel in the trial.
- Implement specific criteria for service on the Pardon and Parole Board to prevent conflicts of interest or the appearance of conflicts (*e.g.*, nepotism or the appearance of a lack of impartiality). A few examples that raise concerns include: former District Attorney Robert "Bob" Macy's son (Robert "Brett" Macy),<sup>42</sup> former

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<sup>41</sup> The Oklahoma statute does not appear to extend the requirement for District Attorneys to have an "open file" post-trial which does not ensure fairness in the justice system, particularly in capital murder cases. OK, T. 22 OK Statute §22-2002. The Oklahoma Open Records Act also does not provide sufficient relief in that "Section 24A.12 expressly provides that investigatory reports and litigation files of the District Attorney's Office are confidential, and Section 24A.8 of the Act further limits those records that a law enforcement agency, such as the District Attorney's Office, must make available." *See, e.g.*, March 10, 2022 Letter from District Attorney David Prater to Reed Smith denying its request for the Glossip case file. We have recently learned from former Assistant District Attorney Gary Ackley the District Attorney's Glossip "case file" consists of seven boxes of records and evidence (including 3 VHS videocassette tapes). Ackley advised District Attorney Prater to send the three VHS videocassette tapes to the Oklahoma State Bureau of Investigation's Forensic Video Analyst to see what is on them and if one of them contains the Sinclair Gas Station surveillance footage from the night of the murder. June 2022 Reed Smith Interview of G. Ackley.

<sup>42</sup> [https://www.ok.gov/ppb/Board\\_and\\_Meeting\\_Information/Board\\_Members/index.html](https://www.ok.gov/ppb/Board_and_Meeting_Information/Board_Members/index.html)

Assistant District Attorney Connie Smothermon's husband (Richard Smothermon),<sup>43</sup> and former Oklahoma County Assistant District Attorney Pattye High, who previously worked closely on other cases with Glossip's prosecutor, Ms. Smothermon, and did not recuse herself for Glossip's 2014 clemency hearing). In addition, a recusal by a parole board member should not effectively count as a "no" vote against clemency for the inmate.

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<sup>43</sup> [https://www.ok.gov/ppb/Agency\\_and\\_Board\\_Meeting\\_Information/Board\\_Members/index.html](https://www.ok.gov/ppb/Agency_and_Board_Meeting_Information/Board_Members/index.html)

#### **IV. Basic Chronology Of Events**

- **1995:** Glossip starts working as the manager of the Oklahoma City Best Budget Inn
- **July 1996:** Sneed starts staying at the Best Budget Inn with his roofing crew
- **January 7, 1997:** Sneed kills Barry Van Treese in room 102
- **January 9, 1997:** Glossip arrested by police outside attorney's office in Oklahoma City
- **January 14, 1997:** Sneed arrested, interrogated by police, charged with Murder 1
- **January 14, 1997:** Glossip formally charged in Oklahoma County Court with Accessory After the Fact
- **January 21, 1997:** Glossip charged with Murder 1
- **January 23, 1997:** Sneed and Glossip formally charged in Oklahoma County Court with Murder 1
- **May 1998:** Sneed reaches agreement with District Attorney's Office to avoid the death penalty and testify against Glossip
- **July 1998:** Glossip convicted in first trial and sentenced to death
- **October 1999:** District Attorney's Office directs Oklahoma City Police Department to destroy box of evidence with 10 items including financial records
- **July 2001:** Oklahoma Court of Criminal Appeals vacates conviction, grants new trial
- **June 2004:** Glossip convicted in second trial and sentenced to death
- **April 2007:** Oklahoma Court of Criminal Appeals affirms conviction on 3-2 vote
- **November 2008:** Glossip files a petition for habeas appeal in federal court (Western District of Oklahoma)
- **September 2010:** U.S. District Judge denies Glossip's habeas petition and issues a certificate of appealability, finding that Glossip "has made a substantial showing of the denial of a constitutional right"
- **July 2013:** Denial of Glossip's Habeas appeal is affirmed by the 10<sup>th</sup> Circuit Court of Appeals
- **October 2014:** Pardon and Parole Board Hearing denies clemency
- **September 2015:** Oklahoma Court of Criminal Appeals denies post-conviction relief

## V. Recitation Of Facts<sup>44</sup>

This case involves the brutal murder of Best Budget Inn motel owner Barry Van Treese in the early morning hours of January 7, 1997 in Oklahoma City, and the Oklahoma City Police Department's narrow focus from the beginning on the motel manager, 33-year-old Richard Glossip, for the murder. Glossip had no significant criminal history.<sup>45</sup> It is undisputed that Justin Sneed, the motel maintenance man, who worked for a free room at the Best Budget Inn motel since summer 1996, killed 54-year-old Mr. Van Treese by beating him with a baseball bat. Sneed, who was 19 years old, had a prior criminal record consisting of three convictions: (1) a bomb threat, (2) burglary of a habitation, and (3) writing bad checks (all in Texas).<sup>46</sup> Sneed also heavily used methamphetamine, cocaine, and marijuana.<sup>47</sup>

### **Barry Van Treese and His Businesses**

Mr. Van Treese was a former banker who had a Master's degree in Banking and Finance from Southern Methodist University. He had seven children (two from a prior marriage and five with his second wife, Donna Van Treese). After 20 years as a banker, Mr. Van Treese decided to invest in several low-rent motel properties in Oklahoma City, Tulsa, and Weatherford, Oklahoma. Mr. Van Treese had significant state and federal tax liabilities.<sup>48</sup> As a result, his bank account had been levied by the Internal Revenue Service ("IRS").<sup>49</sup> Mr. Van Treese was known to keep large sums of money on him and in his vehicle, instead of his levied bank account.<sup>50</sup> In 1993, the Weatherford motel property was foreclosed, several of his vehicles were repossessed, and he

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<sup>44</sup> The recitation of facts in this section is only a summary of the most basic facts of the case that are or should be mostly undisputed. More detailed facts, including facts in dispute, are discussed throughout this Report.

<sup>45</sup> The Oklahoma Department of Corrections detailed that "Glossip has only two (2) minor offenses in his criminal history" which were disorderly conduct citations from 1981 for which he paid a fine. Glossip also had a suspended Illinois driver's license due to minor traffic infractions." In 1981, Glossip was 18 years old. See Oklahoma Department of Corrections District VIII Probation and Parole, Pre-Sentence Investigation Report, July 20, 1998 at pp. 2-3.

<sup>46</sup> See Section XVIII.A.1. for a more detailed history.

<sup>47</sup> See Section XVIII.A.1.-2. for more information on Sneed's illegal drug use.

<sup>48</sup> April 2022 Reed Smith Interview of Van Treese's CPA Dudley Bowdon. Due to the State's motive theory asserting robbery, embezzlement and disrepair of the motel, it is necessary to provide complete context regarding Mr. Van Treese's business affairs and financial dealings as these matters are important to assess whether the State's theory is credible.

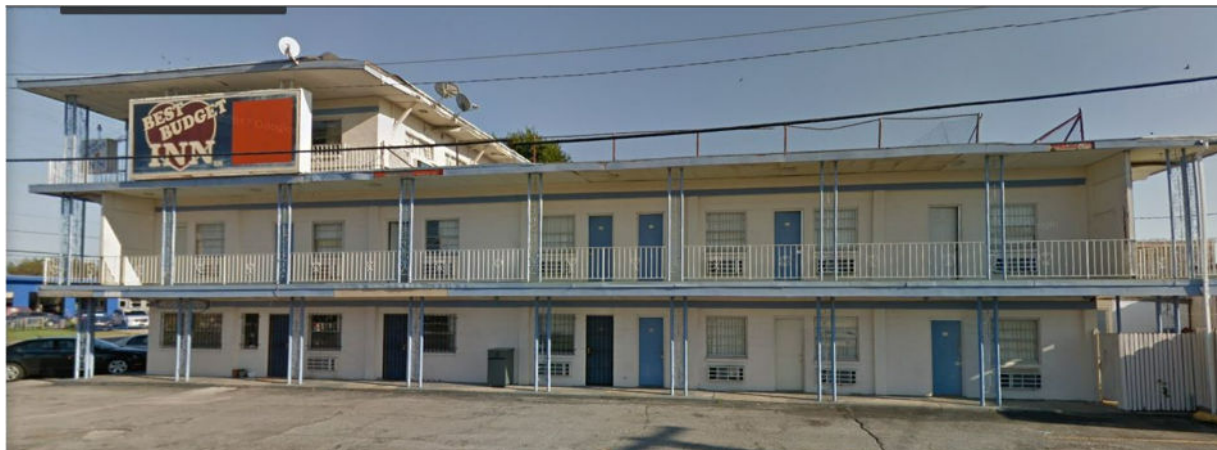
<sup>49</sup> *Id.*

<sup>50</sup> *Id.* See also Section XVIII.A.4.b. for additional individuals who knew Mr. Van Treese to carry large sums of cash on him.



owed the Oklahoma State Employee Securities Tax Commission as well as the IRS over \$66,000.<sup>51</sup> By 1997, the Van Treeses owned just two motels (Best Budget Inn Tulsa and Best Budget Inn Oklahoma City, pictured below and next page). Mr. Van Treese’s business operations involved primarily cash dealings. Despite his financial troubles, Mr. Van Treese was described as “meticulous” in his accounting and keeping track of the business finances.<sup>52</sup> Cliff Everhart, a former police chief being investigated by the Oklahoma State Bureau of Investigation for corruption (and later prosecuted and incarcerated),<sup>53</sup> and an OIDS criminal defense investigator,<sup>54</sup> moonlighted as an unpaid security officer at the Best Budget Inn Oklahoma City motel. Everhart also claimed he was part owner of the Best Budget Inn motel, loaning Mr. Van Treese money in exchange for 1% ownership.<sup>55</sup>

Best Budget Inn Tulsa motel:



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<sup>51</sup> See Section XII. for a more detailed summary of Mr. Van Treese’s financial troubles, debts owed, and how these impacted his business dealings and provide context for the proper assessment of the State’s case.

<sup>52</sup> April 2022 Reed Smith Interview of Van Treese’s personal CPA Dudley Bowdon; Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 130:24-131:8.

<sup>53</sup> See Section XIII.C. for the criminal convictions of Everhart including making false statements.

<sup>54</sup> OIDS Employment Records of Cliff Everhart, Letter from Executive Director Robert D. Ganstine (confirming Everhart “has been an employee of the Oklahoma Indigent Defense System since April 1, 1991); OIDS Termination Checklist (September 30, 1997).

<sup>55</sup> January 7, 1997 Police Report of J. Gibbons at p. 1; January 7, 1997 Police Report of T. Brown (“Mr. Everhart, being part owner of the Best Budget Inn, had keys to all the rooms with him.”). Ms. Van Treese disputed this claim and we located no property records that support Everhart’s claim of part ownership. See, e.g., May 26, 1998 Affidavit of Van Treese’s personal CPA Dudley Bowdon at p. 2, stating “I do not have any information regarding Mr. Everhart having any interest in Best Budget Inn located at 301 S. Council, Oklahoma City, Oklahoma, nor do I have any information regarding any loan from Mr. Everhart to Barry Van Treese.”

Best Budget Inn Oklahoma City motel:<sup>56</sup>



The Best Budget Inn Oklahoma City motel was located at 301 S. Council Road, near a truck stop known to police for drug and prostitution activity,<sup>57</sup> within walking distance to a Sinclair 24-hour Gas Station (pictured next page, below left), and a strip club (next page, below right).

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<sup>56</sup> January 7, 1997 Police Crime Scene Photos, LWW 12477 and 12474.

<sup>57</sup> May 2022 Reed Smith Interview of retired Oklahoma City Police Department Master Sargent Michael O'Leary. O'Leary is a 27-year veteran of the Oklahoma City Police Department. In January 1997, O'Leary was a patrol officer who assisted the homicide detectives in the Van Treese investigation and later became an Auditor of the Oklahoma City Police Department's Property Management Unit which retains evidence collected by the police.

Sinclair Gas Station

Strip Club



Sinclair Gas Station

Strip Club

Best Budget Inn Motel



The motel was also nearby the Weokie Credit Union (below, middle white building).

Strip Club

Weokie Credit Union

Best Budget Inn Motel



### **State's Theory of the Case**

From the beginning, the State took a singular view of Mr. Van Treese's murder: Sneed committed the actual murder but he only did so because Glossip directed him to kill Mr. Van Treese. "But for Richard Glossip, Sneed would not have killed Mr. Van Treese."<sup>58</sup> The State asserted Glossip was worried about being fired on January 6, 1997 due to his embezzling of more than \$6,000 over the course of 1996, and because he did not properly maintain the motel property. The prosecution summarized the case to the Oklahoma County Court as follows:

This case basically rests on the testimony of Mr. Sneed. The physical evidence basically all goes to Mr. Sneed. He's the one who actually committed the murder. Our contention is that Mr. Glossip was the mastermind and that he enlisted Mr. Sneed to carry out

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<sup>58</sup> State's Closing from Trial 2, Vol. 15, at p. 151:21-22; State's Closing from Trial 1, Vol. 9 at p. 57:5-6.

the murder. And so the physical evidence is all going to go to Mr. Sneed rather than to Mr. Glossip.<sup>59</sup>

### **January 6, 1997: Day of the Murder and Barry Van Treese's Movements**

On the evening of January 6, 1997, Glossip called Mr. Van Treese's home to inquire about payroll for his day desk clerk, Billye Hooper, and him.<sup>60</sup> Hooper was supposed to have been paid the day before on January 5, but the Van Treese family had just returned from vacation that day.<sup>61</sup> Mr. Van Treese arrived at the Oklahoma City motel soon after.<sup>62</sup> Glossip gave Mr. Van Treese the receipts and cash, and Mr. Van Treese performed his usual accounting and wrote paychecks to Hooper and Glossip.<sup>63</sup> Hooper and D-Anna Wood, Glossip's live-in girlfriend who was also present, observed Mr. Van Treese to be in a pleasant and "happy" mood.<sup>64</sup> Detective Cook noted the following:

Billye said that when Barry arrived at the motel, he wasn't in a bad mood. He exchanged pleasantries with her, Rich, and D-Anna. After exchanging pleasantries, he ran the daily receipts and started talking motel business. There was mention of room 112 and how it needed to be fixed up. Billye said that she got the impression that Barry was going to spend the night and survey the room the next day for improvements..

Billye said that before she left for the day, Barry had Rich bring him the money. She said that later after Barry's body was discovered, she was asked by Cliff to run a tally on how much money Barry had been given. She said that if the dailies were correct, she figured \$2877.

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<sup>59</sup> Assistant District Attorney Fern Smith, May 29 1998 Pre-Trial Hearing Transcript at p. 27:21-25.

<sup>60</sup> Southwestern Bell Records indicate a one-minute outgoing call to the Van Treese home at 5:01 p.m. State's Exhibit 80. We note that the State's Exhibit is p. 5 of 10, yet the other pages do not appear to have been part of the trial exhibit or produced to defense counsel.

<sup>61</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 58 14-15. "We skied for four days and we returned home Sunday morning, January the 5<sup>th</sup>, 1997."

<sup>62</sup> Southwestern Bell Records indicate a three-minute outgoing call to the Van Treese home at 6:18 p.m. State's Exhibit 80. Ms. Van Treese testified that Mr. Van Treese called home and spoke with his 24-year-old son Derrick Van Treese to obtain payroll information. Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 80:20-81:1. There is no record of any police interview of Derrick Van Treese.

<sup>63</sup> State's Exhibit 5.

<sup>64</sup> January 9, 1997 Police Report of W. Cook; January 24, 1997 Report of W. Cook, at p. 2 (Wood told police on January 8, 1997 that "Barry was in a good mood and happy Monday evening.") We note that the initial dates listed for the police reports reflect when the report was typed up and inputted into the police records database, not necessarily when the interview or information contained within was obtained.

There are varying witness accounts regarding the amount of money Mr. Van Treese picked up – on January 7, Glossip estimated to Officer Tim Brown that it was \$3,000,<sup>65</sup> but also said the next day to detectives that it was approximately \$400-450 a day and there were 9 days (total \$3,600-45,00),<sup>66</sup> and Hooper later testified it was \$3,500-4,000,<sup>67</sup> despite her January 7 calculation using the motel’s daily reports that it was \$2,877.<sup>68</sup> Officer Brown also informed his supervisor, Lieutenant Cave, that:<sup>69</sup>

ADVISED ME HE KNEW THE MISSING PERSON AND KNEW HIM TO CARRY LARGE AMOUNTS OF CASH ON HIM. THE MP'S VEHICLE WAS FOUND VERY NEAR THIS VAN AND HE WAS

Mr. Van Treese left the Oklahoma City motel at around 7:50 p.m. to drive to his Tulsa motel.<sup>70</sup> He then returned later to Oklahoma City. Pike Pass<sup>71</sup> records show that he exited the Turner turnpike at 1:36 a.m.<sup>72</sup> If he went straight to the motel, he would have arrived at around 2/2:15 a.m.<sup>73</sup> The Sinclair Gas Station clerk, Kayla Pursely, observed Sneed come in to buy cigarettes around 2 a.m. to 3 a.m.<sup>74</sup>

Purfley said Justin, the maintenance man, came over to the store around 2:00am to 3:00am. Justin told me he had just woke up and needed some cigarettes real bad. Purfley said his appearance was not unusual. He looked fine. I asked Purfley to describe Justin for me. Purfley said

<sup>65</sup> January 7, 1997 Police Report of T. Brown.

<sup>66</sup> January 8, 1997 Police Interrogation of R. Glossip at p. 36: 4-7. The motel daily reports from January 1-6, 1997 showed a total of \$3100.69 collected by the motel - \$252.24 (amount of payments made with credit cards) = \$2848.45 which would represent the total amount of cash picked up by Barry Van Treese. See Section X.A. for the complete analysis.

<sup>67</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at pp. 73:18, 83:12-21. Based on the evidence uncovered by this investigation, we conclude that Mr. Van Treese would have picked up less than \$3000 consistent with Ms. Hooper’s original calculation. See Section X.A. regarding the money Mr. Van Treese picked up on January 6, 1997.

<sup>68</sup> January 9, 1997 Police Report of W. Cook.

<sup>69</sup> January 7, 1997 Police Report of J. Cave.

<sup>70</sup> January 8, 1997 Police Interrogation of D. Wood at p. 75.

<sup>71</sup> According to the Oklahoma Turnpike Authority, Pike Pass “provides totally automated, free-flow travel on all Oklahoma Turnpikes at highway speeds, eliminating the need for motorists to stop and pay tolls.” <https://www.pikepass.com/pikepass/GeneralInformation.aspx>

<sup>72</sup> State’s Exhibit 50.

<sup>73</sup> See Appendix 3 for a timeline of Mr. Van Treese’s movements using the Pike Pass records and distances between locations.

<sup>74</sup> May 14, 1997 Suppl. Police Report of B. Bemo at p. 1.

Though the subsequent events and timeline are disputed, Sneed, using his own master key, entered room 102, and began to beat Mr. Van Treese with a baseball bat. John Prittie, the guest in the room next door, room 103, was awakened between 1 and 2 a.m. by sounds of “a loud disturbance.”<sup>75</sup>

t of a sound sleep. Prittie said he over heard arguing between two  
ople coming from room 102. Prittie believes one of the voices he heard  
guing was a male voice and the other voice he couldn't tell if it was  
le or female. The voices were mostly muffled and it was hard to under-  
and what the argument was about. Prittie said after the disturbance was  
er he heard moaning coming from inside the next room (102) and it stop-  
d about 15 minutes later.

Prittie checked on his vehicle, did not call the police, and went back to bed.<sup>76</sup> Motel guest John Beavers also heard “a ruckus” and breaking of glass but at 4/4:30 a.m.<sup>77</sup>

ould hear glass breaking. Beavers said he made a point to look in the  
irection where noise came to identify the room. Beavers said he could  
ee glass on the ground. The room was next to the staircase and Beavers  
aid it sounded like a ruckus going on in there. Beavers said he could  
ear two people talking and it sounded like they were arguing with each  
ther, but he couldn't be for sure.

Beavers also did not call police but continued on his walk over to the Sinclair Gas Station for cigarettes.<sup>78</sup> Beavers stayed at the Sinclair Gas Station for 15-30 minutes then walked over to the motel office and rang the buzzer. When nobody came, he went back to his room.<sup>79</sup>

Sometime after the murder, around 5 a.m./5:30 a.m., Sneed went to Glossip's apartment at the motel and woke him up.<sup>80</sup> Glossip noticed Sneed had a black eye and scratches, and asked

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<sup>75</sup> January 15, 1997 Police Report of B. Bemo at p. 2.

<sup>76</sup> *Id.*

<sup>77</sup> May 13, 1997 Police Report of B. Bemo at p. 2.

<sup>78</sup> *Id.* at 1.

<sup>79</sup> *Id.* at 3.

<sup>80</sup> January 8, 1997 Police Interrogation of R. Glossip, at pp. 13-15.

him what happened.<sup>81</sup> Sneed responded he “kind of dozed off and hit his head on the shower.”<sup>82</sup> Sneed then told Glossip “there was a couple drunks that got loud and out of hand, and they broke the glass in 102.”<sup>83</sup> Glossip told Sneed to “clean it up” and “first thing in the morning put Plexiglass in there.”<sup>84</sup> During his second police interrogation on January 9, 1997, Glossip told police when Justin knocked on the door, “I knew something was wrong because I seen his face. And then he was rattled. He was real just – he couldn't stand still. He couldn't look me in the face or nothing. And then he told me what he did...He told me that he killed Barry.”<sup>85</sup>

In the morning, Sneed woke Glossip up at 8/8:30 a.m. to use his car to go get the Plexiglass.<sup>86</sup> Glossip helped hold the Plexiglass while Sneed caulked it on the window outside room 102.<sup>87</sup> Glossip then went to sleep for a few more hours, telling Hooper to wake him up in the afternoon.<sup>88</sup> At around 1:30 p.m., Glossip went to run errands including getting eye glasses, buying a ring for Wood, and going to Walmart.

Glossip never called the police. Glossip has stated that he “was scared”<sup>89</sup> and did not believe Sneed at the time because, when he looked outside, he did not see Mr. Van Treese’s car in its usual parking spot right under the canopy in front of the motel’s office.<sup>90</sup>

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<sup>81</sup> *Id.* at 15: 16-21.

<sup>82</sup> *Id.* at 15:19-21.

<sup>83</sup> *Id.* at 15: 22-24.

<sup>84</sup> *Id.* at 16: 3-5; January 9, 1997 Police Interrogation of R. Glossip at p. 14: 13-15 and p. 15: 12-15. Glossip added on January 9: “[t]hat's when I told him to clean -- to clean up the glass, because I didn't want to touch nothing because I didn't want my prints on a damn thing.” January 9, 1997 Police Interrogation of R. Glossip at p. 14: 7-10. Glossip also told police that “I didn't touch the door in any way, shape, or form 'cause I didn't want my prints anywhere.” January 9, 1997 Police Interrogation of R. Glossip at p. 30:19-21.

Notably, the Oklahoma Court of Appeals has found that an individual’s admission to dragging and dumping the body of his own sister insufficient corroboration of accomplice testimony for murder, and only proof of accessory after the fact. *See, e.g., Cummings v. State*, 968 P.2d 821, 830 (Okla. Crim. App. 1998) (“While this evidence clearly implicates Appellant as an accessory after the fact, it does not support a finding that he acted as a principal, either by aiding or abetting his sister's murder.”)

<sup>85</sup> January 9, 1997 Police Interrogation of R. Glossip at p. 10:6-14.

<sup>86</sup> *Id.* at 16: 1-3, 17:19-18:2.

<sup>87</sup> *Id.* at 18:4-5. At about 9 a.m. on January 7, 1997, Room 103 Guest John Prittie saw two “young males fixing the window.” January 15, 1997 Police Report of B. Bemo at p. 2.

<sup>88</sup> January 8, 1997 Police Interrogation of R. Glossip at p. 16:15-19.

<sup>89</sup> January 9, 1997 Police Interrogation of R. Glossip at p. 14:1-4.

<sup>90</sup> Trial 1 Testimony of R. Glossip at p. 87:1-5.



Glossip maintains he never checked nor went inside room 102.<sup>91</sup> No physical evidence or DNA forensics collected link Glossip to the murder, room 102, or Mr. Van Treese's car.<sup>92</sup>

### **January 7, 1997: Discovery of the Car**

At 1:30 pm, Deputy Sheriff Matt Steadman arrived on scene at the Weokie Credit Union where he worked as a security guard.<sup>93</sup> Employees had seen a gray Buick LeSabre at 6:30 a.m. when they first arrived to work and alerted Deputy Sheriff Steadman.<sup>94</sup> Mr. Van Treese's vehicle was parked near several repossessed vehicles and a Dodge van that had been recently broken into.<sup>95</sup> Officer Tim Brown later opened a larceny report on this van and linked it in the police database to the Van Treese missing person's report.<sup>96</sup> The police did not assign this larceny to any detective for further investigation.

UNION AT 0630 HRS., THAT'S WHEN SHE ARRIVED AT WORK. PRIOR TO LEAVING THE CREDIT UNION PARKING LOT, I WAS ADVISED THAT A DODGE VAN, THAT WAS PARKED JUST TWO PARKING SPACES TO THE WEST OF WHERE VICTIM VANTREESE'S VEHICLE WAS FOUND, HAD THE PASSENGER WINDWING BROKE OUT AND THE STEERING COLUMN PUNCHED. I-6 MCCORNACK WAS CALLED OUT TO PROCESS THE VAN AND A CRIME IDENT REPORT WAS FILLED OUT, CASE #97-002287.

Oklahoma County Deputy Sheriff Steadman opened Mr. Van Treese's car and found a UPS envelope with the Best Budget Inn Motel address and at around 2/2:15p.m. called over to inquire.<sup>97</sup> He spoke with the day desk clerk, Hooper, who identified the car and was very concerned.<sup>98</sup> Deputy Sheriff Steadman then notified the Oklahoma City Police Department at around 2:30 p.m./3 p.m.<sup>99</sup> At around 3 p.m., Hooper notified Ms. Van Treese and a missing

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<sup>91</sup> January 9, 1997 Police Interrogation of Richard Glossip at pp. 18-19.

<sup>92</sup> Court's Exhibit 2, Stipulation of Melissa Keith at p. 3. Notably, the money (\$1757) found on Glossip's person when he was arrested was found to be clean ("Item 54, money taken from Richard Glossip, was examined, and blood was not observed.") *Id.*

<sup>93</sup> March 11, 1997 Police Report of B. Bemo at p. 1.

<sup>94</sup> January 7, 1997 Police Report of T. Brown at p. 1; Trial 2 Testimony of C. Split, Vol. 9 at pp. 145, 149: 7-11 (Split testified that it was a "white or tan" car, however, Mr. Van Treese's car was actually gray).

<sup>95</sup> March 11, 1997 Police Report of B. Bemo at p. 2; January 7, 1997 Larceny Report of T. Brown.

<sup>96</sup> January 7, 1997 Larceny Report of T. Brown.

<sup>97</sup> March 11, 1997 Police Report by B. Bemo at p. 2.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

person's report was filed shortly thereafter by Ms. Van Treese.<sup>100</sup> Police reports indicate the following:<sup>101</sup>

AFTER SPEAKING TO LT. WILLIAMS, WHO SUGGESTED WE ATTEMPT TO GET IN TOUCH WITH VICTIM'S WIFE, DONNA, IN LAWTON, TO DETERMINE IF IN FACT VICTIM WAS MISSING AND IF SHE HAD KEYS TO VICTIM'S CAR. IT WAS LEARNED SHE HAD NO KEYS. MRS. VANTRESSE ADVISED THAT VICTIM LEFT LAWTON ON MONDAY MORNING, WAS TO COME TO OKC, TO BEST BUDGET INN, THEN GO ON TO TULSA. VICTIM APPARENTLY LEFT TULSA AROUND 1230, LEAVING A MESSAGE WITH THAT MOTEL (BELIEVED TO BE VICTIM'S ALSO) THAT HE WOULD BE HOME, IN LAWTON, IN ABOUT 5 1/2 HRS.

MRS. VANTRESSE DID NOT KNOW VICTIM STOPPED BACK IN OKC. >

Despite declaring Mr. Van Treese a missing person at 3:10 p.m.,<sup>102</sup> none of the Oklahoma City police officers on the scene searched any of the motel rooms until seven hours later.<sup>103</sup> Instead, the police relied on civilian Everhart, who had arrived on scene and instructed Sneed, the killer, to search the rooms.<sup>104</sup>

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PROPERTY OF REPORT

On 1/7/97, at 10:30pm, this officer along with Insp. Bill Cook were called out to the Best Budget Inn, 301 S. Council RD., room #102 in reference to a crime scene. Information known at the time was that the owner of the Best Budget Inn, Barry Van Treese, had disappeared. Mr. Van Treese's vehicle had been discovered parked in the parking lot of the Okla Credit Union, 8200 W. Reno on 1/7/97 at approximately 3:00pm. A search by motel personnel and police officers was started at that time. A search of the motel in the afternoon was conducted by another suspect, Clinton Sneed, which disclosed nothing. The victim, Van Treese, was later found at approximately 10:00pm by Sgt. Tim Brown and Clif Everhart in room #102.

<sup>100</sup> January 7, 1997 Police Report by J. Gibbons.

<sup>101</sup> January 8, 1997 Police Report by J. Wheat at p. 1.

<sup>102</sup> January 7, 1997 Police Report of J. Gibbons at p. 2.

<sup>103</sup> January 7, 1997 Police Report of T. Brown.

<sup>104</sup> May 14, 1997 Bemo Supplemental Report at p. 1; January 8, 1997 Police Report of J. Wheat at p. 1 ("The security guard had the maintenance man check all the rooms to ensure victim wasn't inside. Sgt. Wheat briefly [word omitted in copy provided] this maintenance man, but noticed nothing unusual from a distance.")

Sneed did not search the rooms, and instead fled when additional police officers arrived on scene in the late afternoon of January 7, 1997.<sup>105</sup> Glossip, who had been at Walmart, returned when Hooper, alerted him that Mr. Van Treese was missing.<sup>106</sup> Upon arrival at the motel (between 3-4 p.m.), Glossip spoke with Everhart,<sup>107</sup> walked over to the Weokie Credit Union to look at Mr. Van Treese's car,<sup>108</sup> and later searched for Mr. Van Treese with Everhart and Wood.<sup>109</sup>

At no time did Glossip direct the police to room 102, nor did he suggest that the police or anyone else check room 102.

### **January 7, 1997: Discovery of the Body in Room 102**

At approximately 10 p.m. on January 7, 1997, Officer Tim Brown and Everhart decided to check room 102 after being told by motel resident and Sinclair Gas Station clerk, Kayla Pursely, about a broken window in room 102.<sup>110</sup> After using hemostats to jimmy the door open, Everhart and Officer Brown found Mr. Van Treese deceased in room 102.<sup>111</sup> Witnesses later placed Everhart's girlfriend, Lisa Keechi Williams, around room 102 as well.<sup>112</sup> No police report,

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<sup>105</sup> Transcript of January 14, 1997 Police Interrogation of J. Sneed, at pp. 57: 8-58:3.

<sup>106</sup> January 8, 1997 Police Interrogation of R. Glossip at p. 18: 8-9; January 9, 1997 Police Interrogation of R. Glossip at p. 20:14-22.

<sup>107</sup> January 8, 1997 Police Interrogation of R. Glossip at p. 83:1-6.

<sup>108</sup> Glossip is seen in the area by police officers and captured in their police reports. *See, e.g.*, January 8, 1997 Police Report of Officer J. Wheat at p. 1.

<sup>109</sup> January 7, 1997 Police Report of T. Brown. Officer Brown and other witnesses (Everhart, Hooper, Ms. Van Treese) testified that Glossip gave conflicting statements when he last saw Mr. Van Treese. Glossip disputes these and maintains that these statements were misunderstood. *See, e.g.*, January 8, 1997 Police Interrogation of R. Glossip at p. 72: 13-24 (stating he "thought I saw him...everyone knows I wear glasses.")

<sup>110</sup> Trial 2 Testimony of K. Pursely, Vol. 9 at pp. 60:25-61:8, 83:9-13. Though Officer Brown does document going over to the Sinclair Gas Station (where Pursely worked as a clerk), Officer Brown does not specifically document the conversation or tip from Pursely regarding Room 102, and only lists a conversation with Cliff Everhart where "Cliff advised that Rich told him, that Rich saw Barry at the Best Budget Inn at 7:00 a.m. in the morning. I told Cliff that I would like to look at the window of Room #102." January 7, 1997 Supplemental Police Report of T. Brown at p. 2.

<sup>111</sup> January 7, 1997 Police Report of T. Brown.

<sup>112</sup> Trial 2 Testimony of K. Pursely, Vol. 9 at p. 59: 18-22. Pursely testified that "Tim Brown and Cliff were the two who found him [Mr. Van Treese]. Leslie and myself had walked from Sinclair and just stepped right there to the sidewalk where they were when the door was opened." *Id.* Before she passed away, Leslie Keechi Williams confirmed that she was present when Mr. Van Treese's body was found. A. Cusick Interview of Leslie Keechie Wylie Williams at p. 8 (May 23, 2017).

however, mentions Williams and there is no record she was ever interviewed by police. Everhart and Brown backed out of the room, with Everhart forgetting his soda cup on the TV.<sup>113</sup>



LWW 12503

Shortly after the body was discovered in room 102, Officer Brown placed Glossip and his live-in girlfriend, D-Anna Wood in separate police cars.<sup>114</sup> Also soon after the body was found, Glossip identified Sneed as the possible killer to police.<sup>115</sup>

On January 8, 1997, Dr. Chai Choi from the Oklahoma County Medical Examiner issued an Autopsy report and cited the cause of death as “traumatic injuries of head, blunt force.”<sup>116</sup>

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<sup>113</sup> Police Crime Scene Photos, at p. 38, LWW 12503. Officer Brown later informed Detective Fiely that the “clerk” (not Everhart) had left the soda. January 8, 1997 Technical Investigations Report of J. Fiely at p. 3; April 2022 Reed Smith Interview of Detective J. Fiely.

<sup>114</sup> No other witnesses were placed in police vehicles or transported to the police station that night.

<sup>115</sup> January 7, 1997 Police Report of T. Brown; January 8, 1997 Police Interrogation of R. Glossip at pp. 14. 23.

<sup>116</sup> Report of Investigation by Medical Examiner, January 8, 1997, Dr. Chai Choi, at pp. 1 and 2.

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**CAUSE OF DEATH:****TRAUMATIC INJURIES OF HEAD, BLUNT FORCE**

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**AUTOPSY NO. ML 021-97****CASE NO. 9700131**

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The facts stated herein are true and correct to the best of my knowledge and belief.

Dr. Choi's report listed both the date and time of death as "unknown."<sup>117</sup> Police never recovered the murder weapon used by Sneed (baseball bat). The crime scene photographs showed an extremely violent attack.<sup>118</sup>

**January 7, 1997: Police's Hypothesis Formed**

Detective Bemo arrived on the scene at 10:55 p.m. and Detective Cook arrived an hour later.<sup>119</sup> They were briefed by other officers.<sup>120</sup> Detective Cook explained: "[W]hen we first got there, they [uniformed officers] briefed us as to what they had, and part of that briefing included the fact that Mr. Glossip had told them one thing and then had changed his mind and told them a different story, so we had – he was not be excluded by a long shot."<sup>121</sup>

Police divided up the tasks with Detective Bill Cook and Technical Investigator J. Fiely collecting evidence at the crime scene of room 102 while Detective Bemo handled interviewing Best Budget Inn guests.<sup>122</sup> In room 102, police observed a shower curtain hanging over the window secured with duct tape.<sup>123</sup>

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<sup>117</sup> Report of Investigation by Medical Examiner, January 8, 1997, Dr. Chai Choi, at p. 1.

<sup>118</sup> State's Exhibits 26, 60, 62, 63.

<sup>119</sup> January 7, 1997 Crime Scene Log. Detective Bemo is logged in as arriving at 2255 (10:55 p.m.) and Detective Cook arrived at 2350 (11:50 p.m.) Cook logged out at 0230 (2:30 a.m.) and Bemo at 0315 (3:15 a.m.). Detective Bemo's February 24, 1997 Police Report detailing January 7, 1997 states that he arrived on scene at 10:30 p.m. February 24, 1997 Police Report by B. Bemo at p. 1. At trial, when asked whether he intended his reports to be accurate, Detective Bemo testified "[n]ot necessarily. I wanted them to be as accurate as I could make them, but, I mean, I wasn't going to – I wouldn't tell you that it was precisely accurate." Trial 2 Testimony of B. Bemo at p. 113:10-12.

<sup>120</sup> February 24, 1997 Police Report of B. Bemo at p. 1

<sup>121</sup> October 1997 J. Sneed Preliminary Hearing at pp. 31-32.

<sup>122</sup> February 24, 1997 Police Report by B. Bemo at p. 1.

<sup>123</sup> State's Exhibit 34; see also January 9, 1997 Technical Investigations Report by Detective J. Fiely at p. 2.



The shower curtain that covered the inside of the window (pictured above) was collected and processed for prints. No prints were found and the item was submitted to the property room.<sup>124</sup> Detective Fiely also photographed the room and observed the bathroom's "shower curtain intact."<sup>125</sup>

BsThroom - No signs of blood - shower curtain still intact  
Sink area free from signs of blood.

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<sup>124</sup> January 9, 1997 Technical Investigations Report by J. Fiely at p. 3.

<sup>125</sup> J. Fiely Handwritten Crime Scene Notes at p. 3.

Crime scene photographs taken by police also document the shower curtain hanging in the bathroom of room 102 (pictured, below).<sup>126</sup>



LWW 12510

Despite observing room 102's shower curtain intact in the bathroom, no follow-up or determination was made by the police as to the source of the other shower curtain covering the window. Detective Fiely later testified that the shower curtain covering the window came from room 102.<sup>127</sup>

On scene, Detective Bemo interviewed six motel guests out of 19 occupied rooms.<sup>128</sup> Based on the motel's daily report and information learned from witnesses, some rooms had

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<sup>126</sup> Police Crime Scene Photos, at p. 36, LWW 12510.

<sup>127</sup> Trial 2 Testimony of J. Fiely, Vol. 10 at p. 73:21-23. This was a mistake which Detective Fiely admitted in our April 2022 interview of him. Based on the records, the police do not appear to have determined where this shower curtain came from. See Section VIII.A. for more details.

<sup>128</sup> January 13, 1997 Report by B. Bemo of Police Interviews of Patrick Webb; May 13, 1997 Report by B. Bemo of Police Interview of John Beavers; January 15, 1997 Report by B. Bemo of Police Interview of John Prittie; May 14, 1997 Report by B. Bemo of Police Interview of Kayla Pursely; January 8, 1997 Report of B. Weaver of Police Interview of J. Williams; January 8, 1997 Police Interrogation of D. Wood. Wood's interrogation was conducted at the police station. If other interviews occurred, there is no record of them turned over by the police or prosecution.

multiple guests.<sup>129</sup> Mr. Van Treese's car, located at the Weokie Credit Union, was impounded in the city garage and Technical Investigator J. McMahon later collected evidence from the vehicle, including \$23,100 from the trunk which was in various envelopes with handwritten accountings of the money on the outside of the envelopes.<sup>130</sup> Not all of the envelopes were photographed by police and the envelopes that were (like the one pictured below) do not capture the complete accounting information written on them.<sup>131</sup>



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<sup>129</sup> State's Exhibit 77. For example, Housekeeper Jacqueline Williams lived at the motel with her boyfriend and two children. According to police records, only Williams was interviewed by police.

<sup>130</sup> January 11, 1997 Technical Investigation Report of J. McMahon.

<sup>131</sup> State's Exhibit 10. The envelopes and money was later released by police back to the family, and the family then had to fax back a copy of the envelopes with the handwritten accounting to police. See Section VIII.B.2. for more details on the premature release of evidence by the police.



Some of the money (“16-new \$100 bills”) was stained with blue dye.<sup>132</sup> Lieutenant Phil Hoile “believed that those particular bills may have been stained blue during the course of some type of robbery and that they may have been bait money with the serial numbers recorded and reported stolen.”<sup>133</sup> Lieutenant Hoile took down the 16 serial numbers ostensibly to check the serial numbers against the NCIS database. Some of the money was photographed,<sup>134</sup> and while the money was counted, no denominations were memorialized in any police report.<sup>135</sup> No results of any search of the NCIS database were ever documented. There were numerous other items in the vehicle including a suitcase, a roll of duct tape, a deposit book, a receipt book, checks, a cardbox box, and “miscellaneous papers.”<sup>136</sup> Technical Investigator McMahon explained that “[t]here were a lot of other items, but they were not of any particular evidentiary value for us.”<sup>137</sup>

At 12:15 a.m. on January 8, 1997, then patrol officer Michael O’Leary was contacted to transport Glossip to the police station for interrogation by homicide detectives.<sup>138</sup> At 4:30 a.m., Officer O’Leary was instructed to obtain a surveillance videocassette tape from the Sinclair Gas Station, which he subsequently retrieved.<sup>139</sup> Officer O’Leary gave the videocassette tape to Lieutenant Horn, the Homicide Supervisor on duty.<sup>140</sup> While Lieutenant Horn maintains that he would have given the evidence to the homicide office,<sup>141</sup> there is no further documentation of this tape after Officer O’Leary’s report in police records.<sup>142</sup>

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<sup>132</sup> January 11, 1997 Technical Investigation Report of J. McMahon at p. 3.

<sup>133</sup> *Id.*

<sup>134</sup> State’s Exhibits 10, 11, 12, 82. None of the photographs show close-ups of the handwriting on the outside of the envelopes nor do the photographs show all of the money found.

<sup>135</sup> January 10, 1997 OCPD Property/Evidence Booking Forms by M. Jones/J. McMahon, LWW 1070; January 11, 1997 Technical Investigation Report of J. McMahon at p. 3.

<sup>136</sup> January 11, 1997 Technical Investigations Report of J. McMahon at p. 3.

<sup>137</sup> Trial 1 Testimony of Technical Investigator J. McMahon, Vol. 5 at p. 9: 15-16.

<sup>138</sup> January 8, 1997 Police Report of M. O’Leary.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> May 2022 Reed Smith Interview of Former Lieutenant B. Horn.

<sup>142</sup> This is the same surveillance videotape that District Attorney has recently called former Assistant District Attorney Gary Ackley out of retirement to search for. See Sections VIII.A.-B. for the mishandling of evidence by the Oklahoma City Police and District Attorney’s office.

## January 8 and 9, 1997: Police Interrogations of Richard Glossip

At the police station in the early morning hours of January 8, 1997, veteran Homicide Detectives Bob Bemo and Bill Cook interrogated Glossip and interviewed Wood, separately.<sup>143</sup> During Glossip's first interrogation on January 8, 1997, Detective Bemo informed him that "we're going to get Justin. And when we tell him, you know, what we've got against him and everything and what's coming down, **if he brings your name up in this thing, we come back out, you're going down for first-degree murder, buddy.**"<sup>144</sup> Detective Bemo further told Glossip, "I'm going to tell you right now, **the first one that comes forward is the one that's going to be helping himself.**"<sup>145</sup> Police ultimately released Glossip and he went back to his apartment at the Best Budget Inn Oklahoma City motel. Homicide detectives, however, requested surveillance on Glossip either late January 8 or the early morning hours of January 9, 1997.<sup>146</sup>

In the afternoon of January 9, 1997, immediately after Glossip visited a criminal defense attorney's office, police picked Glossip up and transported him again to the police station.<sup>147</sup> Although Glossip had identified Sneed as the possible killer to police on January 8,<sup>148</sup> it was not until the January 9 interrogation, that he informed the police that Sneed told him in the early morning hours of January 7 that Sneed had killed Mr. Van Treese.<sup>149</sup> In the span of 24 hours, Glossip was interrogated by police twice (January 8 and 9, 1997), and arrested for Murder 1 (January 9, 1997). Five days later, Glossip was formally charged but only with accessory after the fact.<sup>150</sup> Police also did not speak with the actual killer, Sneed, until January 14, 1997.

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<sup>143</sup> January 8, 1997 Police Interrogation Transcripts of R. Glossip and D. Wood.

<sup>144</sup> January 8, 1997 Police Interrogation Transcript of R. Glossip, at p. 63:20-25 (emphasis added).

<sup>145</sup> *Id.* at 64:5-7.

<sup>146</sup> March 18, 1997 Bemo Report at p. 2; Trial 2 Testimony of D. Mauck, Vol. 12 at p. 6:18-25. Mauck testified that homicide detectives requested him and his partner at "either like 10, 11 on the 8<sup>th</sup> or 12 or 1:00 on the 9<sup>th</sup>, some time in the early morning hours of the 9<sup>th</sup> or late hours of the 8<sup>th</sup>." Trial 2 Testimony of D. Mauck, Vol. 12 at p. 14:1-3.

<sup>147</sup> Trial 2 Testimony of D. Mauck, Vol. 12 at pp. 7-9.

<sup>148</sup> January 7, 1997 Police Report of T. Brown; January 8, 1997 Police Interrogation of R. Glossip at pp. 25-26.

<sup>149</sup> January 9, 1997 Police Interrogation Transcript of R. Glossip, at p. 10:10-14.

<sup>150</sup> January 14, 1997 Information filed by the District Attorney's Office with the Oklahoma County Clerk. This was dismissed and amended on January 23, 1997. State's Motion to Dismiss and Recall Warrant, January 23, 1997, LWW 25269.

In his police report, Detective Bemo detailed the reasoning for the police zeroing in on Glossip as a suspect involved in the murder.<sup>151</sup>

Investigators had been told that Richard Glossip had told different stories to different people since this incident had begin. Glossip was considered a suspect along with his maintance man, Justin Taylor, later disclosed to be Justin Sneed. Sneed had disappeared from the motel sometime during the search for Mr. Van Treese on 1/7/97.

The conflicting statements presumably related to when Glossip had last seen Barry Van Treese but they are not specifically identified in Detective Bemo's report.<sup>152</sup>

Glossip was arrested for murder in the first degree after his second interview on January 9, even though Detective Bemo told him, "And, see, the thing about it is that **at least you're not looking at a first-degree murder charge.**"<sup>153</sup> The police took custody of \$1,757 found on Glossip's person and booked it into evidence.<sup>154</sup> The money was photographed, the specific denominations were counted, and the money was sent to the lab for testing.<sup>155</sup> No DNA evidence was found on Glossip's money.<sup>156</sup> Despite being arrested for Murder 1 on January 9, the District Attorney only charged Glossip with accessory after the fact based on the state of the evidence.<sup>157</sup> It was only after Sneed was interrogated that the District Attorney amended the charge against Glossip to Murder 1 on January 21, 1997, and formally filed the amended charge with the Oklahoma County Court on January 23, 1997.<sup>158</sup>

Detective Bemo has publicly described Glossip as "such a liar, he wouldn't know the truth if it hit him right between the eyes"<sup>159</sup> and stated his belief that Sneed "wasn't in it by himself, because he wasn't smart enough like I said earlier, to do this."<sup>160</sup>

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<sup>151</sup> March 18, 1997 Police Report of B. Bemo, at p. 1.

<sup>152</sup> January 7, 1997 Standard Supplemental Police Report of T. Brown.

<sup>153</sup> January 9, 1997 Police Interrogation of R. Glossip, at p. 52:3-5 (emphasis added).

<sup>154</sup> January 10, 1997 Police Report of B. Cook.

<sup>155</sup> State's Exhibit 6; January 10, 1997 Police Report of B. Cook.

<sup>156</sup> Court's Exhibit 2, Stipulation of M. Keith at p. 3.

<sup>157</sup> January 14, 1997 Information, Case No. CF9700256, LWW 25273.

<sup>158</sup> Case Record, Office of the District Attorney, Oklahoma County, Oklahoma at p. 1 (January 21, 1997); January 23, 1997 Amended Information, Case No. CF9700244, LWW 5827.

<sup>159</sup> Detective Bemo reflected on his assessment of Richard Glossip as he rewatched his January 8, and January 9, 1997 interrogations of Richard Glossip. Radical Media Interview with B. Bemo at p. 23 (July 26, 2016).

<sup>160</sup> Radical Media Interview with B. Bemo at p. 4 (July 26, 2016).

**January 14, 1997: Police Release Evidence**

It appears that no later than January 14, 1997, the police released Mr. Van Treese's car to the family.<sup>161</sup> The \$23,100 and the envelopes with handwriting were also released to the family.<sup>162</sup> On January 20, 1997, the family faxed back to the State a copy of the handwritten envelopes showing Mr. Van Treese's accounting of the cash deposits he had picked up at various points in time prior to January 6, 1997 and kept in the trunk of his car. This faxed copy (as opposed to the original envelopes) was used as an exhibit at trial.<sup>163</sup>

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Jan-20-97 10:35 Wood Concepts Inc

DATE	AMOUNT
12-6	665.
12-7	820
12-8	490
12-9	110
12-10	395.
12-11	750.

Wood Concepts, Inc. is Kenneth Van Treese's business in Tulsa.<sup>164</sup> Kenneth Van Treese is Mr. Van Treese's brother. There is no report or documentation confirming that the document had not been altered in any way.

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<sup>161</sup> Pike Pass Records indicate the car was used on January 14, 1997 and several times in February and March 1997. See State's Exhibit 50.

<sup>162</sup> a

<sup>163</sup> State's Exhibit 82. For more details on the police's premature release of evidence, see Section VIII.B.2.

<sup>164</sup> <https://www.woodconcepts.org/>

### January 14, 1997: Arrest and Interrogation of Justin Sneed

A week after the murder, on January 14, 1997, police arrested Sneed at his new residence.<sup>165</sup> Sneed was transported to police headquarters where he admitted to Detectives Bemo and Cook to killing Mr. Van Treese with a baseball bat. Early on in Sneed's interrogation (within the first 20 minutes), Detectives Bemo and Cook brought up Glossip's name six times.<sup>166</sup> Specifically, Detective Bemo informed Sneed that Glossip had been arrested.<sup>167</sup> Detectives Bemo and Cook then mentioned Glossip five additional times,<sup>168</sup> indicating to Sneed that Glossip was "trying to save himself by saying that you're in this by yourself, that it was all your doing and you're the one that did the homicide."<sup>169</sup> Detective Bemo also emphasized to Sneed that Glossip was putting it on you the worst,"<sup>170</sup> "I think that there's more to this than just you being by yourself,"<sup>171</sup> and Detective Cook stated "according to Rich, you told him..." with Detective Bemo interjecting "that you killed the man, the owner of the hotel."<sup>172</sup> Neither detective mentioned any other name to Sneed besides Glossip prior to Sneed's confession, nor did they simply ask Sneed to describe what happened to give him an opportunity to independently implicate other involved persons, if any.

After first denying involvement in Mr. Van Treese's killing,<sup>173</sup> Sneed discussed with police a robbery plan,<sup>174</sup> until finally admitting that he entered room 102 with his master key and<sup>175</sup> killed Mr. Van Treese at Glossip's direction. He first stated that he intended only knock Mr. Van Treese out,<sup>176</sup> but ended with Glossip promising him money (\$7,000) in exchange for the killing.<sup>177</sup> When asked, Sneed explained to police that Glossip wanted Mr. Van Treese killed so

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<sup>165</sup> January 15, 1997 Police Report of V. Kriethe at p. 2.

<sup>166</sup> January 14, 1997 Police Interrogation Transcript of J. Sneed at pp. 17-19, 21.

<sup>167</sup> *Id.* at 17:13-18.

<sup>168</sup> *Id.* at 17-19, 21.

<sup>169</sup> *Id.* at 19:11-15.

<sup>170</sup> *Id.* at 17:20-21.

<sup>171</sup> *Id.* at 17:22-23.

<sup>172</sup> *Id.* at 21:16-19.

<sup>173</sup> *Id.* at 20:23-25.

<sup>174</sup> *Id.* at 18:1-10, 11-22.

<sup>175</sup> *Id.* at 26:3-6.

<sup>176</sup> *Id.* at 28:24-25.

<sup>177</sup> *Id.* at 46:13-16

that he “could run the motel without him [Van Treese] being boss.”<sup>178</sup> Sneed also told police that he stole “a little less than \$5000” from Mr. Van Treese’s car, Detective Bemo then clarified “\$5000?” to which Sneed lowered the amount to “a little less than four, right at four.”<sup>179</sup>

Sneed also told police that he and Glossip split the money back in Sneed’s room, room 117,<sup>180</sup> and “taped a shower curtain up over the inside of the window” of room 102.<sup>181</sup> Police never asked where Sneed obtained the shower curtain or duct tape. Police obtained \$1,680 with drug paraphernalia<sup>182</sup> from Sneed’s new place of residence,<sup>183</sup> but they never asked Sneed about any drug use either before or after the murder and did not test Sneed for drugs. Though police obtained consent from Sneed to search his prior room at the motel,<sup>184</sup> there is no report of any search conducted or any items collected or found. Indeed, the police apparently allowed room 117 to go unprotected from January 7 to January 14 when Sneed was arrested. Police did recover Sneed’s bloody clothes and Mr. Van Treese’s car keys from the motel’s laundry room in a popcorn canister (because Sneed had already told them where they could be found).<sup>185</sup>

It is important to note that Sneed told various versions of the events at various points in time.<sup>186</sup> Sneed later stated that he believed police detectives would help him get a lighter punishment.<sup>187</sup>

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<sup>178</sup> *Id.* at 46:11-12.

<sup>179</sup> *Id.* at 37:9-13.

<sup>180</sup> *Id.* at 36-37.

<sup>181</sup> *Id.* at 52:8-14.

<sup>182</sup> Court’s Exhibit 2, Stipulation of M. Keith, at p. 3.

<sup>183</sup> State’s Exhibit 7. Some of Sneed’s money had his blood on it.

<sup>184</sup> January 14, 1997 Police Interrogation Transcript of J. Sneed at pp. 74-75:16-22.

<sup>185</sup> January 16, 1997 Police Report of C. Cable at p. 2.

<sup>186</sup> *See* Section XVIII.C. for Sneed’s conflicting statements.

<sup>187</sup> Sneed stated: “I thought that they um ... were going to keep their word and they were going to help me and, and by helping me I, I really thought in my own mind that they were gonna, you know, be, allow me to go home. I mean, I, I pretty much knew that there was gonna be some type of punishment or whatever, but I never thought in my life that it was gonna be um, locked inside a penitentiary for the rest of my life.” Radical Media Interview with J. Sneed at p. 11 (June 23, 2016).

### **January 14, 1997: State's Initial Charge of Accessory After the Fact for Glossip**

Glossip was still being held in jail at the time of Sneed's January 14 arrest.<sup>188</sup> The attorney Glossip was meeting with on January 9 said that Glossip had not been given a shower or change of clothes for two weeks while at the jail.<sup>189</sup> Also on January 14, the State formally charged Glossip as an accessory after the fact, claiming that he aided "the escape" of Sneed by "providing false information to investigating officers."<sup>190</sup>

COUNT 1: ON OR ABOUT THE 7TH DAY OF JANUARY, 1997, A.D., THE CRIME OF A ACCESSORY TO A FELONY, TO-WIT: MURDER, WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY RICHARD EUGENE GLOSSIP WHO AFTER THE COMMISSION OF THE CRIME OF MURDER HAD BEEN COMPLETED BY JUSTIN BLAYNE SNEED UPON ONE BARRY ALAN VANTREESE, WILFULLY, KNOWINGLY AND WITH KNOWLEDGE THAT JUSTIN BLAYNE SNEED HAD PERPETRATED SAID MURDER, DID AID THE ESCAPE OF JUSTIN BLAYNE SNEED BY PROVIDING FALSE INFORMATION TO INVESTIGATING OFFICERS, CONTRARY TO THE PROVISIONS OF SECTION 173 OF TITLE 21 OF THE OKLAHOMA STATUTES AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA;

### **January 21-23, 1997: Amended Charge of Murder in the First Degree for Glossip**

On January 21, 1997, Assistant District Attorney Fern Smith approved a Case Record for Glossip with the charge of Murder I and dated it January 21, 1997.<sup>191</sup> By January 23, 1997, an amended information was filed, charging both Sneed and Glossip with first degree murder.<sup>192</sup>

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<sup>188</sup> Case Record, Office of the District Attorney, Oklahoma County, Oklahoma at pp. 5-6 (listing charges of "Murder I" for Sneed on January 14, 1997).

<sup>189</sup> May 2022 Reed Smith Interview of Oklahoma Criminal Defense Attorney David McKenzie.

<sup>190</sup> Information submitted by District Attorney Robert H. Macy, signed and notarized January 14, 1997, and submitted to the Court on January 15, 1997, LWW 25273.

<sup>191</sup> Case Record, Office of the District Attorney, Oklahoma County, Oklahoma at p. 1 (January 21, 1997).

<sup>192</sup> Amended Information submitted by District Attorney Richard H. Macy, signed and notarized January 23, 1997, and submitted to the Court on January 23, 1997, LWW 5827.

COUNT 1: ON OR ABOUT THE 7TH DAY OF JANUARY, 1997, A.D., THE CRIME OF MURDER IN THE FIRST DEGREE WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY JUSTIN BLAYNE SNEED AND RICHARD EUGENE GLOSSIP WHO ACTING JOINTLY, WILFULLY, UNLAWFULLY AND WITH MALICE AFORETHOUGHT, KILLED BARRY ALAN VANTREESE BY BEATING HIM WITH A BLUNT OBJECT, INFLECTING MORTAL WOUNDS WHICH CAUSED HIS DEATH ON THE 7TH DAY OF JANUARY, 1997, CONTRARY TO THE PROVISIONS OF SECTION 701.7 OF TITLE 21 OF THE OKLAHOMA STATUTES, AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA;

On May 26, 1998,<sup>193</sup> Sneed entered into a written plea deal with the State to avoid the death penalty in exchange for pleading guilty to first degree murder and testifying against Glossip.<sup>194</sup> In 1998, Glossip was tried for murder in the first degree in the first trial and convicted. The Oklahoma Department of Corrections' pre-sentence investigation report given to the Court recommended incarceration, noting that the average sentence in Oklahoma for Murder 1 was 32.1 years.<sup>195</sup>

**RECOMMENDATIONS:**

Based upon the background information compiled during this investigation, it is respectfully recommended that the defendant, RICHARD E. GLOSSIP, be denied probation and be sentenced to the Oklahoma Department of Corrections (DOC) for a specified time prescribed by the court.

ACCORDING TO THE OKLAHOMA DEPARTMENT OF CORRECTIONS RESEARCH AND EVALUATION, SUMMARY OF SENTENCE STATISTICS DATED 7-12-94:

The average incarceration sentence given in the State of Oklahoma for Murder 1 is 32.1 years.

The average split sentence is 5.1 years incarceration and 27 years probation.

The average probation sentence is 36.1 years.

**October 1999: Destruction of Evidence by the State While Glossip's Case is Pending**

Despite Glossip's pending appeals, in October 1999, the Oklahoma County District Attorney's Office requested the Oklahoma City Police Department to destroy a box containing

<sup>193</sup> Assistant District Attorney Fern Smith informed the Court the agreement was reached with Sneed in 1997.

<sup>194</sup> Agreement to Cooperate and Testify Truthfully, May 26, 1998, Defense Exhibit 5.

<sup>195</sup> July 20, 1998 Pre-Sentencing Report by Oklahoma Department of Corrections to Judge Freeman, at p. 6, LWW 20956.



several pieces of evidence collected in the Glossip case.<sup>196</sup> The reason given for the destruction was "Appeals Exhausted."<sup>197</sup> The items contained in this box were collected from the various crime scenes (room 102, Mr. Van Treese's vehicle):

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=====
Reported Date: 10/28/99   Time: 15:26           Case: 99-095391 (000)   Page: 1
Code:                    Crime:                 Class: 422100
Occurrence Date: 10/28/99-   Day: THURSDAY -       Time: -
Status: AS ASSIGNED         Closing Officer: 000406 HOGUE, JANET
Location: 701 COLCORD DR., OK                      RD: 7
=====
NARRATIVE
=====
RE:   PROPERTY TRANSFER FROM OKLA. COUNTY DA'S OFFICE
      APPEALS EXHAUSTED: PROPERTY FOR DESTROY
=====

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On 10-28-99, this detective was assigned to transfer property from the Okla. County DA's office back to the OCPD property room. The case number is listed as CRF97-2261 with the defendants listed as Glossip and Sneed, charged with Murder I. The original officer is listed as Sgt. M. Jones. The incident occurred on 01-07-97 at 301 S. Council. The property listed as:

1. One roll of duct tape
2. One bag with duct tape
3. One envelope with note
4. One bag with glasses
5. One bag wallet, knives, keys
6. One bag with white shower curtain
7. One white box with papers
8. One deposit book
9. Two receipt books

Case # 99-095391 OCPD  
 PROPERTY DISPOSITION OR RELEASE  
 Name DA Returns Date 11-10-99  
 Address \_\_\_\_\_ Tel. \_\_\_\_\_  
 Notified on Dest Box 27 below items in the Police Property Room.  
11-10-99  
 OK TO RELEASE  
 DISPOSE AS AUTHORIZED BY CITY ORDINANCE  
 HOLD FOR EVIDENCE  
 Return to property management unit within 14 days  
 Signature of receiving party J. McNutt  
 Officer signature \_\_\_\_\_

<sup>196</sup> October 28, 1999 Destruction of Evidence Report, Detective J. Hogue; November 10, 1999 OCPD Property Disposition or Release/DA Returns, Detective J. McNutt [formerly Hogue].

<sup>197</sup> *Id.*

Defense counsel was not notified by the prosecution of this destruction of evidence until a pre-trial hearing in January 2003.<sup>198</sup> No subsequent legal action was taken by defense counsel or the Court on this issue.

### **2001: Glossip's First Trial Vacated**

In 2001, the Oklahoma Court of Criminal Appeals unanimously overturned that conviction on appeal due to ineffective assistance of counsel. One of the main issues noted was the failure of defense counsel to use the police interrogation videotape of Sneed.<sup>199</sup> Specifically, the Court noted, "This claim is the most egregious of the ineffectiveness claims. Specifically, this subclaim relates to trial counsel's failure to utilize the videotaped interview of Justin Sneed and his failure to utilize the record of Sneed's competency evaluation for impeachment purposes." Oklahoma County Judge Twyla Gray, who presided over certain post-conviction proceedings after the first trial and who was the judge who presided over the second trial, also described Glossip's first trial as a "travesty."<sup>200</sup>

In 2004, the State retried Glossip and obtained a murder conviction and death sentence. The State filed a Bill of Particulars and alleged, the existence of two aggravating circumstances: (1) that the person committed the murder for remuneration or the promise of remuneration or employed another to commit the murder for remuneration or the promise of remuneration; and (2) the existence of the probability that the defendant will commit criminal acts of violence that would constitute a continuing threat to society.<sup>201</sup>

The jury found Glossip guilty of first degree (malice) murder, found the existence of the murder for remuneration (murder for hire) aggravating circumstance, and set punishment at death. Judge Gray formally sentenced Glossip in accordance with the jury verdict on August 27, 2004.

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<sup>198</sup> January 16, 2003 Pre-Trial Motions Hearing at p. 23:11-25.

<sup>199</sup> *Glossip v. State*, 2001 OK CR 21, 29 P.3d 597, 600 note 3 (Okla. Crim. App. 2001).

<sup>200</sup> Trial 2 Transcript, Vol. 16, at p. 12:7-12; See *Glossip v. State*, 2001 OK CR 21, 29 P.3d 597.

<sup>201</sup> See 21 O.S.2001, §701.12(3) and (7).

In 2007, Glossip's conviction was affirmed by the Oklahoma Court of Criminal Appeals in a 3-2 decision.<sup>202</sup> Glossip subsequently filed various requests for state and federal post-conviction relief, which were denied. In 2014, Glossip appeared before the Oklahoma Pardon and Parole Board seeking clemency, which was denied.<sup>203</sup> In the twenty minutes allotted for Glossip to appear before the Pardon and Parole Board, board member Pattye High asked the most questions (24 cross-examination type questions about his after-the-fact conduct).<sup>204</sup>

Glossip has been incarcerated since January 9, 1997. He has had three executions set and then stayed. He is currently housed on death row's H-unit at the Oklahoma State Penitentiary in McAlester, Oklahoma. Glossip has maintained his innocence throughout.

## **VI. The State's Destruction Of Key Evidence Before Glossip's Second Capital Murder Trial Demonstrates A Breakdown Of Our Criminal Justice System**

In 1999, before Glossip was re-tried in his capital murder case, the State destroyed an entire box of key evidence it had in its possession, custody, and control.<sup>205</sup> This fact, however, did nothing to dissuade the State from moving forward with a death penalty case in 2004. The State's theory was that Glossip was embezzling and thus had Mr. Van Treese killed before he could fire Glossip. Yet, critical financial books and records needed to disprove this motive were in the box of evidence that the State destroyed. This loss or destruction of evidence appears to be so critical to the Defense as to cast serious doubt as to the fundamental fairness of the criminal trial against Glossip.

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<sup>202</sup> *Glossip v. State*, 157 P.3d 143 (Okla. Crim. App. 2007).

<sup>203</sup> Before Glossip's clemency denial, former Bob Macy prosecutor, Patricia "Pattye" High, who was an Oklahoma County prosecutor at the time of Glossip's convictions and tried cases with the prosecutor on Glossip's case, Connie Smothermon, took the lead cross-examining Glossip at the Clemency hearing. May 2022 Reed Smith Interview of C. Smothermon. For more details, see Section XXII.

<sup>204</sup> Glossip's Clemency Hearing, Transcript Part 4, at pp. 3-8 (October 24, 2014).

<sup>205</sup> October 28, 1999 Police Report of J. Hogue; October 27, 1999 DA Returns Form; OCPD Property Disposition or Release / DA Returns card, November 10, 1999 listing 10 items: "1. Roll of duct tape, 2. Duct tape, 3. Envelope w/ note, 4. Glasses, 5. Bag w wallet, keys, knives [sic], 6. Shower curtain, 7. White box w/ papers, 8. Deposit book, 9. 2 receipt books, 10. Plexi-glass." The 10<sup>th</sup> item, Plexiglass, is also listed on a separate form that retired Master Sergeant O'Leary did not recognize as a police form but one used by the District Attorney's Office. October 27, 1999 Items Returned to OCPD; May 2022 Reed Smith Interview of Former Officer M. O'Leary.

Perhaps equally as troubling is that neither the defense counsel, the Court, nor any subsequent appellate counsel took any legal action to rectify this egregious error by the State.<sup>206</sup> According to Former District Attorney Gary Ackley, the Oklahoma County District Attorney's Office had a long-standing agreement with the Oklahoma City Police Department since the 1990s to never destroy evidence in a capital murder case.<sup>207</sup> In light of this longstanding agreement, it is even more concerning that multiple prosecutors from the District Attorney's Office, including Fern Smith and Connie Smothermon,<sup>208</sup> were aware of this destruction of evidence and neither appear to have investigated or determined how this destruction happened. This represents a complete breakdown in our criminal justice system.

Detective Janet Hogue, a 28-year veteran of the Oklahoma City Police Department, documented the State's destruction of evidence in a 1999 police report.<sup>209</sup> A recent interview revealed the following:<sup>210</sup>

**Question:** Do you find it concerning at all that an ADA told you to destroy a box of evidence when the case was still ongoing?

**Detective Janet Hogue:** Unfortunately I do.

Based on this and other information obtained through this investigation, the State's destruction was not merely an accident (*e.g.*, a case of grabbing the wrong box). The State, as memorialized by multiple documents from both the Oklahoma County District Attorney's Office and the Oklahoma County Police Department, expressly intended to destroy this evidence.<sup>211</sup> According to Detective Hogue, "the only time that we destroyed evidence is when the District

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<sup>206</sup> The fact that defense counsel did not do all they could to raise this issue either before trial, during trial, or on appeal does not excuse the State's destruction.

<sup>207</sup> June 2022 Reed Smith Interview of Former Assistant District Attorney Gary Ackley.

<sup>208</sup> *See, e.g.*, January 16, 2003 Motions Hearing at pp. 23-26 (Fern Smith informing the Court and defense counsel of the destruction of the evidence); *see also* October 29, 2003 email from Assistant District Attorney Connie Smothermon to then-defense counsel for Glossip (Smothermon states "I am not aware of any policy authorizing the destruction of evidence from our office.") We have not seen any evidence to suggest that Ackley was aware of the destruction of evidence before Glossip's retrial. As he indicated, he came on to assist Connie Smothermon shortly before the trial was set to begin. June 2022 Reed Smith Interview of G. Ackley.

<sup>209</sup> October 28, 1999 Police Report of J. Hogue.

<sup>210</sup> April 2022 Reed Smith Interview of Former Detective J. Hogue.

<sup>211</sup> October 27 1999 DA Returns Form; October 28, 1999 OCPD Evidence/Property Booking Form; October 28, 1999 Police Report of J. Hogue; OCPD Property Disposition or Release / DA Returns card, November 10, 1999.

Attorney's office, now this is homicide only. When the District Attorney's Office advised that the evidence is ready for destruction."<sup>212</sup>

===== NARRATIVE =====  
 RE: PROPERTY TRANSFER FROM OKLA. COUNTY DA'S OFFICE  
 APPEALS EXHAUSTED: PROPERTY FOR DESTROY

BODY OF REPORT

On 10-28-99, this detective was assigned to transfer property from the Okla. County DA's office back to the OCPD property room. The case number is listed as CRF97-2261 with the defendants listed as Glossip and Sneed, charged with Murder I. The original officer is listed as Sgt. M. Jones. The incident occurred on 01-07-97 at 301 S. Council. The property listed as:

1. One roll of duct tape
2. One bag with duct tape
3. One envelope with note
4. One bag with glasses
5. One bag wallet, knives, keys
- 6 One bag with white shower curtain
- 7 One white box with papers
- 8 One deposit book
9. Two receipt books

A property card was filled out and the evidence was checked into the property room and marked for destroy by this detective.

Case # 99-095311 OCPD  
 PROPERTY DISPOSITION OR RELEASE

Name DA Returns Date 11-10-99  
 Address \_\_\_\_\_ Tel \_\_\_\_\_  
 Notified on Dest Box 27 below items in the Police Property Room.  
11-10-99

OK TO RELEASE  
 DISPOSE AS AUTHORIZED BY DISP. ORDINANCE  
 HOLD FOR EVIDENCE

Return to property management unit within 14 days

Signature of receiving party \_\_\_\_\_  
 Officer signature \_\_\_\_\_

DESCRIPTION OF PROPERTY

1. roll duct tape
2. duct tape
3. envelope w/ note
4. glasses
5. bag w/ wallet, keys, knives
6. shower curtain
7. white box w/ papers
8. deposit book
9. 2 receipt books

ra. Alexi Glass

DEFENDANT: Glossip / Sneed  
 CHARGE: Murder I  
 INCIDENT NO.: 97-2261

- ITEMS RETURNED TO OCPD:
1. one roll duct tape
  2. one bag w/ duct tape
  3. one envelope w/ note
  4. one bag w/ glasses
  5. one bag w/ wallet, knives, keys, etc.
  6. one bag w/ white shower curtain
  7. one white box w/ papers
  8. one deposit book
  9. 2 receipt books.
  10. FLX1-GLASS RA

<sup>212</sup> April 2022 Reed Smith Interview of Former Detective J. Hogue.

Based on interviews with multiple law enforcement officers (current and former), the protocol adhered to by the Oklahoma City Police Department for homicide cases was generally to retain evidence indefinitely.<sup>213</sup> However, Detective Hogue confirmed that, if the District Attorney's Office instructed the police to destroy evidence, the police would carry out that instruction.<sup>214</sup>

**Question:** And so even though it's a homicide case and a death penalty case, if the DA says destroy it, you follow the orders and submit it for destruction. Is that fair?

**Detective Hogue:** That was the way it was in 1999. If the DA's office called you over and said this is for destruction, you say okay. You make a list and you take it over to the property room for destruction.

**Question:** Okay, so basically the DA's office has the final determination to destroy the evidence and the police just kind of carry out their instructions. Is that fair?

**Detective Hogue:** That back then, that was correct.<sup>215</sup>

Giving the State the benefit of the doubt, and assuming the State did not have mal-intent, the State should not be absolved from how grave of an error this is. In a 2003 pre-trial hearing on an unrelated motion in the Glossip case, Oklahoma County Court Judge Gray observed generally that "there are mistakes that are so serious that they cannot be cured by a simple admonishment to the jury."<sup>216</sup> The State's destruction of evidence is such a mistake, and inexcusable in a capital murder case.

The box that the State destroyed in 1999 contained 8 key pieces of evidence (collected from two different crime scenes – room 102 and Mr. Van Treese's vehicle). These items notably had material significance to Glossip's case and his defense against the State's claims.<sup>217</sup> The

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<sup>213</sup> May 2022 Reed Smith Interview of Former Officer M. O'Leary; *see also* May 2022 Reed Smith Interview of Former Lieutenant B. Horn. Detective John Fiely also confirmed that police protocol is to keep evidence in a homicide case "forever." April 2022 Reed Smith Interview of Detective J. Fiely.

<sup>214</sup> April 2022 Reed Smith Interview of Former Detective J. Hogue. Detective Hogue later added "And you just didn't question them [District Attorney's Office] back then, you know. When they say the appeals have run out and it needs to go for destruction, then that's what you did." *Id.*

<sup>215</sup> April 2022 Reed Smith Interview of Former Detective Hogue.

<sup>216</sup> January 10, 2003 Pre-Trial Motions Hearing, 20:5-13.

<sup>217</sup> It might be asserted that there is no prejudice because these materials were available before Glossip's first trial, but any such assertion would be inappropriate given the fact that it was determined that Glossip's defense in the first trial was so ineffective that it warranted a new trial. This also does not account for advancements in DNA and

State alleged that Glossip committed the murder for hire (via Sneed) because he was embezzling from the motel. Yet the State destroyed the very financial records (deposit book and receipt logs) that Glossip would need to definitively disprove there was embezzlement. These were handwritten accounting log books that were maintained by Mr. Van Treese himself and kept in his vehicle. This loss or destruction of evidence appears to be so critical to the Defense as to make the subsequent criminal trial against Glossip fundamentally unfair.

Item Destroyed <sup>218</sup>	Location Where Found	Relevance to Case
1. One roll of duct tape	Room 102	<p>Sneed told Detectives that Glossip helped him hang the shower curtain with duct tape over room 102's window.</p> <p>Though police in 1997 found no fingerprints at the scene visible to the naked eye, Glossip had the right to independently examine and test for additional suspects who may have been involved. Further, with advances in fingerprint analysis/technology, prints not visible in 1997 can now be detected and may have been detected before the re-trial in 2004.</p> <p>These items were also not tested for DNA in 1997. DNA technology has advanced substantially since 1997 (as Oklahoma recognizes by statute),<sup>219</sup> and DNA testing could</p>

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other forensic testing which under Oklahoma law, Glossip would qualify under, to re-test evidence post-conviction. See Oklahoma Title 22 Section 1373”

<sup>218</sup> October 28, 1999 Police Report of J. Hogue; OCPD Property Disposition or Release / DA Returns card, November 10, 1999.

<sup>219</sup> Oklahoma statute recognizes there have been substantial improvements in DNA and other technology, and provides for the opportunity to subsequent test to certain eligible individuals. Oklahoma Title 22 Section 1373 is

Item Destroyed <sup>218</sup>	Location Where Found	Relevance to Case
		<p>reveal the DNA of another suspect. For example, the suspect might have torn the duct tape with their teeth, leaving behind DNA evidence.</p>
<p>2. Duct tape</p>	<p>Room 102</p>	<p>Sneed told Detectives that Glossip helped him hang the shower curtain with this duct tape over room 102's window.</p> <p>Though police in 1997 found no fingerprints at the scene visible to the naked eye, Glossip had the right to independently examine and test. With advances in fingerprint analysis/technology, prints not visible in 1997 can now be detected.</p>
<p>3. One envelope with note</p>	<p>Vehicle</p>	<p>Due to the police's vague description of this evidence, Glossip's defense counsel would have had to view the actual evidence to determine its utility. The State's destruction of this evidence deprived the defense from information kept by Mr. Van Treese.</p> <p>It seems highly probable that the destroyed "envelope w/note" was the envelope which contained the money Sneed said he took from underneath the seat in Mr. Van Treese's car. This envelope would show exactly how much money Mr. Van Treese collected the night of his murder.</p>

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known as the Postconviction DNA Act ("PDNA") and details the eligibility and procedures for DNA testing post-conviction. The PDNA went into effect November 1, 2013.



Item Destroyed <sup>218</sup>	Location Where Found	Relevance to Case
		<p>The State asserted that amount to be \$4,000 in order for Sneed’s story to withstand scrutiny. The evidence uncovered in this investigation demonstrates Sneed took far less than \$4,000, but the destroyed evidence would provide the most definitive proof.<sup>220</sup></p>
<p>4. Bag with wallet, knives, keys</p>	<p>Room 102</p>	<p>Sneed told Detectives that Glossip pulled out the wallet and took a \$100 bill.<sup>221</sup> Police did not test for any fingerprints.<sup>222</sup></p> <p>Glossip could have tested the wallet to aid in his defense and cast doubt on Sneed’s claims.</p> <p>If the wallet did not have Glossip’s prints, but only had Sneed’s prints, then that would further disprove Sneed’s claims.</p> <p>At trial, Detective Bemo acknowledged that they never had the wallet tested and if Sneed had said something sooner about the wallet, then they would have tested it for Glossip’s</p>

<sup>220</sup> The motel daily reports from January 1-6, 1997 showed a total of \$3100.69 collected by the motel - 252.24 (amount of payments made with credit cards) = \$2848. 45 which would represent the total amount of cash picked up by Mr. Van Treese. See Section X.A. for the complete analysis.

<sup>221</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at pp. 123:22-124:3.

<sup>222</sup> Trial 2 Testimony of B. Bemo, Vol. 14 at pp. 77:5-78:1.

Item Destroyed <sup>218</sup>	Location Where Found	Relevance to Case
		fingerprints. <sup>223</sup> However, by 1999, the State had destroyed it and it could not be tested.
5. White shower curtain	Room 102	<p>Sneed told Detectives that Glossip helped him hang the shower curtain over room 102's window.<sup>224</sup></p> <p>Though police in 1997 found no fingerprints at the scene visible to the naked eye, Glossip had the right to independently examine and test. With advances in fingerprint analysis/technology, prints not visible in 1999 can now be detected.<sup>225</sup> Oklahoma statute provides this right.</p> <p>For example, it could show that others (not Glossip) might have been involved in the murder, or if only Sneed's prints were found, that fact would not support Sneed's claims.</p>
6. White box with papers	Vehicle	Due to the police's vague description of this evidence, Glossip's defense counsel would have had to view the actual evidence to determine its utility. The police must have thought it had relevance given they decided to collect these papers, even though they returned most everything else from the vehicle back to the family. <sup>226</sup>

<sup>223</sup> *Id.* at 77:5-78:1.

<sup>224</sup> Sneed later testified in Trial 1 and Trial 2 that he taped up the shower curtain on his own. He later stated in an interview from 2016 that he taped up the shower curtain on his own, but did so under Glossip's guidance. See Section XVIII. for a discussion of these inconsistencies and issues with Sneed's inconsistent testimony in general.

<sup>225</sup> See <https://www.horiba.com/int/scientific/applications/others/pages/latent-fingerprint-detection/>.

<sup>226</sup> See Section VIII.B.2. for more information on the premature release of evidence by police.

Item Destroyed <sup>218</sup>	Location Where Found	Relevance to Case
		<p>The State’s motive theory included Ms. Van Treese testifying to shortages for the year exceeding \$6,000, and ascribed these shortages to theft by Mr. Glossip.</p> <p>Since Mr. Van Treese kept many of his financial records and cash in his vehicle, it is highly probable these “papers” were relevant financial records. The State’s destruction of this evidence deprived the defense from information kept by Mr. Van Treese made relevant by the State’s motive theories.</p>
7. One deposit book	Vehicle	<p>The State’s theory was Glossip’s primary motive for murder was his embezzlement from the motel and fear he was going to be fired.</p> <p>This deposit book contained the motel’s financial records (<i>i.e.</i>, evidence regarding the cash given to Mr. Van Treese by Glossip) – precisely the evidence Glossip would need to disprove the State’s claim of embezzlement and motive for murder.</p>
8. Two receipt books	Vehicle	<p>These receipt books contained the expenses of the motel (<i>i.e.</i>, cash legitimately going out). Glossip would need this information to disprove the State’s claim of shortages/embezzlement and the motive for murder.</p>

The State listed the reason for the destruction as "Appeals Exhausted."<sup>227</sup> But Glossip's appeals were far from exhausted in October and November of 1999.<sup>228</sup>

===== NARRATIVE =====  
RE: PROPERTY TRANSFER FROM OKLA. COUNTY DA'S OFFICE  
APPEALS EXHAUSTED: PROPERTY FOR DESTROY  
  
BODY OF REPORT

On February 1, 1999, Glossip perfected the appeal of his conviction to the Oklahoma Court of Criminal Appeals. On April 17, 2000, Glossip filed his initial brief, and on July 17, 2001, the Oklahoma Court of Criminal Appeals reversed the conviction and remanded Glossip's case for a new trial. By this time, the box of evidence was long destroyed.

Anyone familiar with the Glossip case, let alone a homicide case in general, should have known that appeals could not and were not exhausted a mere two years after the crime was committed. The crime origination date can be determined by the police case number referenced in Detective Hogue's report: CRF97-2261, which signifies the case was opened in 1997. It is clear that Detective Hogue, a 28-year veteran police officer, was aware of the CRF97-2261 original case number as she wrote it on the DA Returns/OCPD Evidence Booking Form and listed the date of the crime (January 7, 1997):<sup>229</sup>

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<sup>227</sup> October 27, 1999 DA Returns Form; OCPD Property Disposition or Release / DA Returns card, November 10, 1999 listing 10 items: "1. Roll of duct tape, 2. Duct tape, 3. Envelope w/ note, 4. Glasses, 5. Bag w wallet, keys, knives [sic], 6. Shower curtain, 7. White box w/ papers, 8. Deposit book, 9. 2 receipt books, 10. Plexi-glass."

<sup>228</sup> *Glossip v. State*, 2001 OK CR 21, 29 P.3d 597 (OCCA 2001).

<sup>229</sup> October 28, 1999 DA Returns Form OCPD Evidence/Property Booking Form.

**1-797**

*DA Returns*

OCPD EVIDENCE/PROPERTY BOOKING FORM  
(PLEASE PRINT LEGIBLY)

CASE NUMBER: 99-095391    DATE: 10-28-99    TIME: 15:30  
 OFFICER: Amquist    COMM #: 446    UNIT #: H17  
 CHARGE: MURDER I    LOCATION: 301 S. Council  
 WILL CRIME INCIDENT REPORT BE COMPLETED?    YES     NO   
 IF NO, WHY NOT? CRF 97-2261 (T.I. plus original officer)

Detective Hogue also documented this January 7, 1997 crime date in her police report:<sup>230</sup>

On 10-28-99, this detective was assigned to transfer property from the Okla. County DA's office back to the OCPD property room. The case number is listed as **CRF97-2261** with the defendants listed as Glossip and Sneed, charged with Murder I. The original officer is listed as Sgt. M. Jones. The incident occurred on **01-07-97** at 301 S. Council. The property listed as:

Even more puzzling is that a new case number (99-095391) was created “solely for this destruction of this box of evidence,” when the typical protocol would have been to use the original case number (CRF97-2261).<sup>231</sup> Upon a recent search of the Oklahoma City Police records database, Detective Fiely determined that case number 99-095391 had no other associated reports in the police database.<sup>232</sup> Detective Hogue herself stated that the evidence should have been attached to the original 1997 Van Treese case number.<sup>233</sup> Retired police officer Master Sargent Michael O’Leary, an Auditor and Inspector of the Oklahoma City Police Department’s Property Management Unit for ten years, also was puzzled why a new case number was created

<sup>230</sup> October 28, 1999 Police Report of J. Hogue.

<sup>231</sup> April 2022 Reed Smith Interview of Detective J. Fiely. Detective Fiely, currently a larceny detective for the Oklahoma City Police Department, previously worked in the Oklahoma City Police lab, processing crime scenes, and was the first Technical Investigation Officer to begin processing the Room 102 crime scene in January 1997.

<sup>232</sup> *Id.*

<sup>233</sup> *Id.*

for the destruction instead of using the original 1997 homicide case number.<sup>234</sup> Detective John Fiely shared this confusion.<sup>235</sup>

Detective Hogue recounted that she would have received a call to go pick up the evidence from the District Attorney's Office and submit the request for destruction.<sup>236</sup> While she did not recall specifically who gave her this instruction, she was clear that the instruction to destroy evidence came from the District Attorney's Office.<sup>237</sup>

Former District Attorney Gary Ackley explained that, prior to the very last few weeks in 1999, evidence at the District Attorney's Office was stored in the locked office of the individual attorney assigned to the case.<sup>238</sup> In 2000, the District Attorney's Office created a separate property room where evidence was stored in ventilated lockers bolted to the floor.<sup>239</sup>

**Question:** Prior to having lockers in a separate room, if evidence came to the DA's office, it would go to the assigned ADA for that case?

**Ackley:** Yes.

**Question:** When the ADA finished with the box of evidence, the ADA would call the police and ask them to pick it up and the police would come pick it up – is that fair?

**Ackley:** Yes.

Due to Detective Hogue receiving a request from the District Attorney's Office in October 1999, *i.e.*, prior to when the District Attorney's Office acquired the ventilated lockers, Detective Hogue would have gone to the individual prosecutor's office where the box of evidence was being stored.

Although it is unclear when the actual destruction of evidence took place, the handwritten property card appears to be indicating that the box should be destroyed on

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<sup>234</sup> May 2022 Reed Smith Interview of Former Officer M. O'Leary. Officer O'Leary is the same then-patrol officer who picked up the Sinclair Gas Station videotape on January 8, 1997.

<sup>235</sup> April 2022 Reed Smith Interview of Detective J. Fiely.

<sup>236</sup> April 2022 Reed Smith Interview of Detective Hogue; *see also* February 21, 2020 Interview of Janet McNutt (Hogue).

<sup>237</sup> April 2022 Reed Smith Interview of Detective J. Hogue.

<sup>238</sup> June 2022 Reed Smith Interview of G. Ackley.

<sup>239</sup> *Id.*

November 10, 1999.<sup>240</sup> The “B” (pictured below) indicates it was in the second destruction of the year and could have taken place in late 1999 or early 2000.<sup>241</sup>

The image shows a handwritten OCPD (Oklahoma City Police Department) "PROPERTY DISPOSITION OR RELEASE" card. The card is filled out with the following information:

- Case #: 99-095311
- Name: DA Returns
- Address: (blank)
- Notified on: Dest Box 27, 11-10-99
- Disposition:  DISPOSE AS AUTHORIZED BY CITY ORDINANCE
- Signature: (handwritten signature)

A large handwritten letter "B" is written in the center of the card. At the bottom left, there is a note: "Return to property management unit within 14 days."

The handwritten card checking the evidence into the Property Room shows that the box next to “dispose as authorized by city ordinance” is checked, but the card does not give a citation to the ordinance authorizing such an action. The versions of the Oklahoma City Municipal Code in effect in 1999 and also continuing today, including the authorizing statutes, prevent the return or destruction of property where that property is still “needed to be held as evidence or for any other purpose in connection with any litigation,” and requires that the Chief of Police apply to the district court and that a hearing be conducted.<sup>242</sup> But this was not the case with the box of evidence that was destroyed.

It also raises questions that Detective Hogue was tasked with this destruction request as (1) she was unaffiliated with the Glossip case and (2) in 1999, her homicide partner was Detective Bemo,<sup>243</sup> the lead homicide detective on the Glossip case. We share the below concerns about

<sup>240</sup> OCPD Property Disposition or Release / DA Returns card, November 10, 1999.

<sup>241</sup> May 2022 Reed Smith Interview of Officer M. O’Leary. In 1999, O’Leary thought that in 1999, the police burned things marked for destruction in a burn pit.

<sup>242</sup> See Oklahoma City Municipal Code § 43-42 (1999), (2019); 11 Okla. Stat. § 34-104(A), (B) (1999) (2012).

<sup>243</sup> February 2022 Reed Smith Interview of former Detective J. Hogue.

the State's destruction of evidence in a capital murder case, as voiced by the multiple police officers and former prosecutor spoken to in connection with this investigation:

- “. . . ‘marked for destroy’ by this detective. . . man, that’s some strong words for a homicide case that was just, what? Two years after that?”<sup>244</sup>
- “I’m surprised that they destroyed anything to do with a homicide . . . . I don’t understand why the DA would say to destroy this . . . . It’s not the way it’s supposed to be done.”<sup>245</sup>
- “I’m kind of disturbed about the fact that somebody just destroyed something to do with a homicide case.”<sup>246</sup>
- “I’m going to tell you the truth . . . if there were ongoing appeals, yeah, I see a problem.”<sup>247</sup>
- “The Glossip deal horrifies me. I have no idea how something could happen. No idea why it would happen. In my admittedly faulty recollection, that was well after we had reemphasized this stuff couldn’t get destroyed.”<sup>248</sup>

It is relevant to note that multiple state courts, including West Virginia, Tennessee, Alabama, and Alaska, among others, have held as a matter of state constitutional law that the loss or destruction of evidence critical to the defense does violate due process, even in the absence of bad faith.<sup>249</sup> “Fairness dictates that when a person’s liberty is at stake, the sole fact of whether the police or another state official acted in good or bad faith in failing to preserve

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<sup>244</sup> April 2022 Reed Smith Interview of Detective J. Fiely.

<sup>245</sup> May 2022 Reed Smith Interview of Former Officer O’Leary.

<sup>246</sup> *Id.*

<sup>247</sup> April 2022 Reed Smith Interview of Former Detective J. Hogue.

<sup>248</sup> June 2022 Reed Smith Interview of Former Assistant District Attorney Gary Ackley.

<sup>249</sup> In *Harris v. State*, 2019 OK CR 22, 34 (Okla. Crim. App. 2019), the court held that the Defendant failed to show either (1) that the State permitted the loss or destruction of physical evidence whose exculpatory value was apparent at the time, or (2) that the State acted in bad faith in permitting the loss or destruction of physical evidence with even potential value to the defense.” Based on the police report documenting the District Attorney’s request to destroy the evidence, we believe there is sufficient cause to warrant further investigation by the State to determine if there was bad faith.



evidence cannot be determinative of whether the criminal defendant received due process of law.”<sup>250</sup>

Glossip did not have any of this evidence for his retrial or any of his post-conviction efforts. The State deprived him of critical evidence that he would have needed to help disprove the State’s motive and other claims. In addition, given significant scientific advances in the last 25 years, additional testing could have been performed on several pieces of evidence such as the shower curtain, the duct tape, and the wallet to determine whether there was another suspect involved and to test further the veracity of Sneed’s claim that Glossip was involved. Indeed, Oklahoma law provides for this right to subsequently test. This raises fundamental questions of fairness that have yet to be addressed by our criminal justice system.

#### **VII. Detective Bemo’s Questionable Police Tactics Contaminated Sneed’s Interrogation And Yielded Unreliable Evidence**

It is evident from viewing the interrogation of Sneed that Detective Bemo interjected his opinions early on, contaminating the validity of the statements thereafter given by Sneed. This is something the jury never was given the opportunity to view as the Sneed interrogation video was not played in the trial. Had it been played, the jury could have observed the police’s signaling of information then adopted by Sneed. Multiple jurors expressed that they wished they had seen the video of Sneed’s interrogation.<sup>251</sup> Former prosecutor Gary Ackley explained that he is “always concerned about police techniques and how they would be perceived.” His thoughts are informative on this particular police technique:

**Question:** What are your thoughts on police techniques in terms of planting information or feeding the person information instead of your approach of asking open ended questions to see what they say?

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<sup>250</sup> *State v. Morales*, 232 Conn. 707, 723, 657 A. 2d 585, 593 (1995); *see also State v. Ferguson*, 2 S. W. 3d 912, 916-917 (Tenn. 1999); *State v. Osakalumi*, 194 W. Va. 758, 765-767, 461 S. E. 2d 504, 511-512 (1995); *State v. Delisle*, 162 Vt. 293, 309, 648 A. 2d 632, 642 (1994); *Ex parte Gingo*, 605 So. 2d 1237, 1241 (Ala. 1992); *Commonwealth v. Henderson*, 411 Mass. 309, 310-311, 582 N. E. 2d 496, 497 (1991); *State v. Matafeo*, 71 Haw. 183, 186-187, 787 P. 2d 671, 673 (1990); *Hammond v. State*, 569 A. 2d 81, 87 (Del. 1989); *Thorne v. Department of Public Safety*, 774 P. 2d 1326, 1330, n. 9 (Alaska 1989).

<sup>251</sup> *See, e.g.*, March 2022 Reed Smith Interview of Juror No. 7, April 2022 Reed Smith Interview of Juror No. 1, April 2022 Reed Smith Interview of Juror No. 8, and March 2022 Reed Smith Interview of Juror No. 12.

**Ackley:** It's better avoided – I think there are probably times when the interviewer has to ask pointed or detailed questions but it's certainly better avoided.

**Question:** The reason why you try to avoid them is because you don't want to taint the information or even inadvertently signal to the person of some piece of information you want to get back from them?

**Ackley:** Yes. And I also want to make sure the information came from the interview subject not the police.<sup>252</sup>

Before Sneed ever implicated Glossip as being involved, Detective Bemo interjected his view that Sneed did not do this alone, that he could help myself, that Glossip was arrested, and that Glossip was blaming Sneed for the murder.<sup>253</sup> Within the first 20 minutes of the interrogation, detectives had dropped Glossip's name *six* times. No other specific individual's name was mentioned by police to Sneed before he confessed.

It is hard to imagine any reasonable person facing a first degree murder charge not taking this life line signaled by police, even if it meant adopting an untruthful narrative. In fact, Sneed himself asked at the end of the interrogation:<sup>254</sup>

BY MR. SNEED: So is this going to  
help me out any at all by telling you all this?

This contamination by the police thus raises serious doubts about the reliability of Sneed's statements that Glossip was involved in the murder. Since Sneed's testimony was the sole evidence that Glossip planned the murder and hired Sneed to carry it out, Glossip's conviction appears to be significantly tainted.

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<sup>252</sup> June 2022 Interview of Former Assistant District Attorney Gary Ackley.

<sup>253</sup> January 14, 1997 Police Interrogation of J. Sneed at pp. 17, 19, 21.

<sup>254</sup> *Id.* at 72:5-6.

Detective Bemo was one of the lead detectives investigating the murder of Mr. Van Treese. By then he was a 28-year veteran of the Oklahoma City Police Department. Detective Bemo retired in 2000 after over 30 years of service.<sup>255</sup> Early on in the Van Treese murder investigation, Detective Bemo became convinced that Glossip was involved in the murder as a principal and the actual mastermind. This tunnel vision contoured the entire investigation, including the interrogation of Sneed. Detective Bemo later described Sneed as “fairly easy to break down.”<sup>256</sup>

DET BEMO.	And when, then went to explaining to him the importance of being very truthful and that we knew better. That we knew that he was the one that had killed Barry. And uh . . . and it wasn't any task to break Justin down, because he didn't have a very strong will to begin with. I mean, like I said, he was uh, a very weak individual. He was a follower and not a leader by any stretch of the imagination so he was uh, fairly easy to break down.
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A leading expert in police interrogation practices observed that Detectives Bemo’s and Cook’s “presumption of Richard Glossip’s guilt was premature because they possessed no independent evidence to support it. Substantial social science research has demonstrated that a behavioral presumption of guilt leads to tunnel vision, confirmation bias, and investigative bias among police investigators, who, as a result, often end up eliciting unreliable case information.”<sup>257</sup> Dr. Leo further explained that, when investigators arrive at such a premature presumption of guilt, instead of seeking to “even-handedly collect factual information and objectively investigate a case . . . they seek to build a case against an individual whose guilt they assume *a fortiori*.”<sup>258</sup> It is our assessment, based on the evidence, that this is what happened here, which led the police to focus solely on Glossip to the detriment of the broader police investigation.

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<sup>255</sup> Trial 2 Testimony of B. Bemo, Vol. 14, 48:1, 19; Judy Kuhlman, *Officers Honored for Service Camaraderie, Love of Work Make Time Fly*, Daily Oklahoman (July 17, 1999).

<sup>256</sup> Radical Media Interview with B. Bemo at p. 18 (July 26, 2016).

<sup>257</sup> Appendix 2, Report of Dr. Richard A. Leo, Ph.D., J.D., Justice Research & Consulting, Inc. (May 25, 2022) (“Leo Report”).

<sup>258</sup> *Id.*

### **A. The Police's Hypothesis Included Gossip Before Even Speaking With Sneed**

Detective Bemo honed in on Gossip as a suspect from the beginning. Police documentation shows that only hours after finding the body and talking to only a handful of witnesses (not even the actual killer, Justin Sneed), Bemo had formulated the hypothesis that Gossip was involved in the murder.

In his police report, Detective Bemo detailed the reasoning for the police zeroing in on Gossip as a suspect involved in the murder:<sup>259</sup>

Investigators had been told that Richard Gossip had told different stories to different people since this incident had begin. Gossip was considered a suspect along with his maintance man, Justin Taylor, later disclosed to be Justin Sneed. Sneed had disappeared from the motel sometime during the search for Mr. Van Treese on 1/7/97.

In Detective Bemo's first interrogation of Gossip, he informed Gossip of his hypothesis. This was only hours after Detective Bemo himself had been called to the scene.

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<sup>259</sup> March 18, 1997 Police Report of B. Bemo at p. 1.

Detective: Okay, one officer then. We've got discrepancies in your story. You told us a while ago that, uh, you didn't see Barry after he left and you told Tim you'd seen him at two different times. You've changed your times around. And, you know, don't sit there and look at me like this, you just listen to what I've got to say.

Richard Eugene Glossip: I'm listening.

Detective: We're gonna get Justin.

Richard Eugene Glossip: I, I wish you would, I really do.

Detective: Well, we're gonna get Justin and when we tell him, you know, what we've got against him and everything and what's coming down, if he brings your name up in this thing, we come back you're going done for first degree murder, buddy, do you understand what I'm saying?

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Detective Bemo went on to say that “the first one that comes forward is the one that’s gonna be helping himself. If you didn’t do, if you didn’t do the actual deed, buddy, then you don’t have anything to worry about.”<sup>261</sup> During this interrogation, Glossip did tell Detectives he had a “hunch” that Sneed did it although he was not 100% certain.<sup>262</sup> Detective Bemo’s hypothesis that Glossip was involved remained unchanged.

Detectives arranged for surveillance to begin on Glossip at 8 a.m. on January 9, 1997.<sup>263</sup> Detective Bemo detailed in his report his hypothesis of Glossip being a principal in the murder:

The fact that Glossip had made several conflicting statements to investigators during his first interview, lead [sic] us to believe he was a principle [sic] in this homicide investigation. Further, investigators had been informed that Glossip was not only attempting to sell some of his possessions off, but was packing his remaining belongings to leave the state. Investigators believed if Glossip was released, he would leave the state to avoid

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<sup>260</sup> January 8, 1997 Police Interrogation Transcript of R. Glossip at p. 63:7-25.

<sup>261</sup> *Id.* at 64:5-10.

<sup>262</sup> *Id.* at 64:11-16.

<sup>263</sup> March 18, 1997 Police Report of B. Bemo at p. 2; Trial 2 Testimony of D. Mauck, Vol. 12 at p. 6:18-25. Mauck testified that homicide detectives requested him and his partner at “either like 10, 11 on the 8<sup>th</sup> or 12 or 1:00 on the 9<sup>th</sup>, some time in the early morning hours of the 9<sup>th</sup> or late hours of the 8<sup>th</sup>.” Trial 2 Testimony of D. Mauck, Vol. 12 at p. 14: 1-3.

prosecution. It was also considered that investigators had enough probable cause to put Richard Glossip in jail.<sup>264</sup>

But the Oklahoma uniform jury instruction defines “principal” as follows:<sup>265</sup>

OUJI-CR 2-6

AIDING AND ABETTING - PRINCIPAL DEFINED

Merely standing by, even if standing by with knowledge concerning the commission of a crime, does not make a person a principal to a crime. Mere presence at the scene of a crime, without participation, does not make a person a principal to a crime.

One who does not actively commit the offense, but who aids, promotes, or encourages the commission of a crime by another person, either by act or counsel or both, is deemed to be a principal to the crime if he/she knowingly did what he/she did either with criminal intent or with knowledge of the other person's intent. To aid or abet another in the commission of a crime implies a consciousness of guilt in instigating, encouraging, promoting, or aiding in the commission of that criminal offense.

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Statutory Authority: 21 O.S. 1991, §§ 171, 172.

It should be noted that other witnesses also made conflicting statements,<sup>266</sup> including Sneed.<sup>267</sup> Yet, this did not appear to cause the police to be suspicious of any of these other witnesses. Detective Bemo’s premature presumption of Glossip’s guilt led to “tunnel vision, confirmation bias, and investigative bias” and appears to have “elicited unreliable case information.”<sup>268</sup>

To be clear, Detective Bemo’s consideration of Glossip as a person of interest was not unreasonable due to Glossip’s own behavior after the murder. The flaw, however, was that Detective Bemo concluded (on January 8) that it was solely Glossip and Sneed, and in turn narrowly focused and shaped the police investigation to fit *only* that hypothesis. That is, Detective Bemo did not appear to remain open to considering other possibilities including that Sneed did it on his own. In fact, the physical evidence supports a robbery gone bad conclusion

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<sup>264</sup> *Id.*

<sup>265</sup> Oklahoma Uniform Jury Instructions, Criminal, 2-6, available at <http://okcca.net/ouji-cr/2-6/>, last visited June 3, 2022.

<sup>266</sup> See Appendix 7 for a more detailed analysis of this inconsistent treatment by police.

<sup>267</sup> Appendix 2, Dr. Leo Report, at pp. 13-15.

<sup>268</sup> *Id.* at 6.

and Sneed most likely committing the murder by himself.<sup>269</sup> Detective Bemo years later explained that he did not think Sneed intended to kill Mr. Van Treese<sup>270</sup> but seemingly would not entertain that possibility during the police investigation and instead held fast to his prematurely shaped belief that Glossip was involved.

### **B. Detective Bemo's Apparent Bias Against Glossip**

Two contributing factors as to why Bemo focused on Glossip may have been that: (1) Detective Bemo had a prior encounter with Glossip and (2) Detective Bemo did not like Glossip's attitude.

Glossip asserts that he previously complained about Detective Bemo to a supervisor when Glossip was the manager of the Grand Continental Motel and before going to work at the Best Budget Inn for Mr. Van Treese. Glossip reported that the Grand Continental's owner, Troy Nichols, had legal troubles and asked Glossip to set up a corporation with Glossip as the principal. Mr. Nichols proceeded to forge checks from the motel using Glossip's name, and Glossip needed to file a police report. According to Glossip, Detective Bemo was assigned the case, and failed to follow through in submitting a report in a timely manner. Glossip complained to Detective Bemo's supervisor.<sup>271</sup> Through our investigation, we were able to corroborate part of Glossip's story by confirming through the Oklahoma Secretary of State that Glossip's name was listed as the principal for the Grand Continental Corporation.

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<sup>269</sup> See Sections VIII. and IX. detailing the numerous police investigation deficiencies.

<sup>270</sup> Detective Bemo stated that Sneed "probably got a little carried away because he was mad because he got hit. And ... before it was uh, too la – I mean, he ended up killing Barry and didn't, ***I don't know that he intended to***, but he did. He beat him pretty good, so." Radical Media Interview with B. Bemo at p. 8 (July 26, 2016).

<sup>271</sup> April 2022 Reed Smith Interview of Richard Glossip.

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FILING HISTORY :

Document Number	Filing Type	Filing Date
345467	Certificate of Incorporation	October 10, 1994
1428739	OTC Suspension	December 6, 1995

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NAMES INFORMATION

Name	Name Type	Name Status	Creation Date
GRAND CONTINENTAL CORPORATION	Legal	Inactive	October 10, 1994

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PRINCIPALS

Name	Title
RICHARD GLOSSIP	Incorporator

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TRADENAMES

No entries found.

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This incident, if true, may have clouded Detective Bemo's views about Glossip. Indeed, in a 2017 interview, Detective Bemo described Glossip as "very arrogant and very cocky . . . . He was one of those guys that really irritates you, you know, with his comebacks and with what he was saying, and that's why I would get in his face sometimes with, 'I'll tell you what, buddy.'"<sup>272</sup> Detective Bemo informed Glossip (before locating and interrogating Sneed) that Glossip had "seen the last free air that he'll ever breathe when we locked him up."<sup>273</sup> In contrast, Detective Bemo determined, based off of one interview of Sneed, that Sneed was "just not smart enough to, to have murder in his heart, necessarily":<sup>274</sup>

DET BEMO.	They he didn't face the death penalty, because he actually did the murder. But when you look at him and you talk with him, you see a, a young man that is, is uh . . . he's just not smart enough to, to have murder in his heart, necessarily. He did it, he carried it out, and he did commit murder.
DET BEMO.	And it was a brutal murder. But . . . who knows why, you know? I mean I don't think he was the one that planned it. I still don't uh, believe that he was the one that planned it. Glossip was the one. He was the one that was trying to back – back out of this thing from the very get go. And he put himself there, you know? He did it to himself.

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<sup>272</sup> Radical Media Interview with B. Bemo at p. 29 (July 26, 2016).

<sup>273</sup> *Id.* at 15 (July 26, 2016).

<sup>274</sup> *Id.*



Detective Bemo declined to respond to our multiple requests for an interview.

### **C. Detective Bemo Employed Questionable Tactics In The Barry Van Treese Case**

Detective Bemo testified in Glossip's retrial about his first interrogation of Glossip. When asked, "Did you make it clear to him that you thought in that interview that Justin Sneed was involved?" he replied, "I may have."<sup>275</sup> Further, when asked, "Do you recall telling him expressly in that statement that the first one who came forward would get the deal? Do you remember that statement being made to him?" he answered, "Yes."<sup>276</sup> As illustrated in the excerpts of Sneed's police interrogation below, Detective Bemo employed the same tactic with Sneed – implicating Glossip before Sneed even mentioned him or provided any information at all about the murder, contaminating the information obtained from Sneed.

#### **1. Detective Bemo Contaminated The Investigation By Signaling To Sneed That He Should Implicate Glossip In The Murder**

Detective Bemo contaminated Sneed's statements and his later testimony by appearing to signal to Sneed and scripting Sneed's confession to include Glossip's involvement. When Bemo interrogated Sneed, he began by telling Sneed that the police knew someone else was involved. Bemo then proceeded to mention only one specific name: Glossip. Once more, before Sneed confessed or mentioned anyone else as being involved, Bemo and his partner, Detective Cook, interjected Glossip's name or intimated that Glossip was somehow involved six times:<sup>277</sup>

#### **One:<sup>278</sup>**

Well, they've made you the  
scapegoat in this. You know, everybody is  
saying you're the one that did this and you did  
it by yourself and I don't believe that.

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<sup>275</sup> Trial 2 Testimony of B. Bemo, Vol. 14 at p. 59:18-21.

<sup>276</sup> *Id.* at. 60: 1-4.

<sup>277</sup> January 14, 1997 Police Interrogation Transcript of J. Sneed at pp. 17-21.

<sup>278</sup> *Id.* at 17:9-18.

You know Rich is under arrest,  
don't you?

BY MR. SNEED: No. I didn't know  
that.

BY MR. BEMO: Yeah. He's under  
arrest, too.

Two:<sup>279</sup>

BY MR. SNEED: Okay.

BY MR. BEMO: So he's the one --  
he's putting it on you the worst.

Now, I think that there's more to  
this than just you being by yourself and I  
would like for you to tell me what -- how this  
got started and what happened and --

Three:<sup>280</sup>

19

BY MR. BEMO: Was he trying to  
proposition you with that idea?

BY MR. SNEED: I guess.

BY MR. COOK: Well, basically what  
he's saying, Justin, is that Rich told us that  
you're the one that came to him with that idea.

<sup>279</sup> *Id.* at 17:19-25.

<sup>280</sup> *Id.* at 19:1-6.

Four:<sup>281</sup>

BY MR. BEMO: He's putting it off  
on you, Justin. That's what he told us.

BY MR. SNEED: No. I don't  
understand that.

Five:<sup>282</sup>

BY MR. BEMO: And now Rich is  
trying to save himself by saying that you're in  
this by yourself, that it was all your doing  
and you're the one that -- that did the  
homicide, it was you, that you came to him and  
told him about it; is that true?

BY MR. SNEED: (Shakes head)

BY MR. COOK: Okay. Why don't you  
straighten this out then.

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<sup>281</sup> *Id.* at 19:7-10.

<sup>282</sup> *Id.* at 19:11-19.

doesn't add up with everything else that we have discovered, not only with our technical investigation but also you told some folks some things. Okay?

BY MR. SNEED: What do you mean?

BY MR. COOK: Well, what I mean is according to Rich, you told him...

BY MR. BEMO: That you killed the man, the owner of the hotel.

As Dr. Leo explains, "Detectives Bemo and Cook presumed the guilt of Richard Glossip in the murder of Mr. Van Treese, and set out to prove it by pressuring and persuading Justin Sneed to name Richard Glossip as his accomplice and the mastermind of the homicide."<sup>284</sup>

**2. Bemo Scripted Sneed's Statements Through Leading Questions, Played One Suspect Off The Other, And Used Minimization, Implying That The Culpability And Punishment Would Be Lessened If Sneed Were To Implicate Glossip**

Detective Bemo used several high-risk investigative techniques contrary to eliciting truthful and reliable evidence. That is, Detective Bemo appears to have scripted Sneed's testimony by suggesting facts that Sneed had not stated first, and in some cases, that no one had stated. Detective Bemo, by mentioning only Glossip early on in the interrogation, signaled to Sneed that is who he wanted him to implicate.

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<sup>283</sup> *Id.* at 21:11-19.

<sup>284</sup> Appendix 2, Dr. Leo Report, at p. 6. Dr. Leo also prepared an expert report that was filed with the federal court in Glossip's habeas petition, stating that "[t]he suggestion that Richard Glossip was involved in the homicide of Barry Van Treese first came from investigators Bemo and Cook, not Justin Sneed. The investigators feed Justin Sneed their theory that Richard Glossip was the mastermind of this homicide, and they repeatedly tell him that Richard Glossip was putting the crime on him." Dr. Richard A. Leo, Ph.D., J.D., Justice Research & Consulting, Inc., Section III(3) (Sept. 9, 2015).

The brief lapse of time in the interrogation when Detective Bemo first inserts Glossip's name (depicted in the chart below) appears to have scripted Sneed to that narrative. Within the first 5 minutes, Glossip was mentioned, and before 20 minutes with Sneed had transpired, Glossip was mentioned *eight* times. It is hard to imagine any individual facing a first degree murder charge not taking this life line given by the police and implicating someone else.

Time Stamp on Video	Page of Transcript <sup>285</sup>	Time Elapsed in Interrogation	Statement
10:45	2	0:00	Start of interrogation
15:29	7	4:44	First mention of "Glossip"
19:26	12	8:41	Second mention – "Rich"
23:35	17	12:50	Third mention – "You know Rich is under arrest, don't you?"
24:36	18	13:51	Fourth mention
24:42	18	13:57	Fifth mention
25:05	19	14:20	Sixth mention
25:13	19	14:28	Seventh mention
27:50	21	17:05	Eighth mention

This early on contamination tends to show that the interrogation of Sneed was not designed to gather information as to what in fact happened. Rather, its purpose was to confirm a specific and already-formed hypothesis to implicate Glossip. Detective Bemo did not allow Sneed to relay what in fact happened because he contaminated the interrogation with information that he signaled was important for Sneed to help himself. "Police interrogation contamination refers to the leaking or disclosing of non-public facts or crime scene details to a

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<sup>285</sup> January 14, 1997 Police Interrogation of J. Sneed.

suspect, and police interrogation scripting refers to pressuring and/or persuading the suspect to adopt the police narrative of the how and why the crime occurred.”<sup>286</sup> If the police wanted to gather information from Sneed, they would not have mentioned anyone’s name or told him that Glossip was arrested, or that Glossip was blaming him the worst. Instead, they would have used open-ended questions not specific to another individual (e.g., state that they know somebody else is involved – tell us who that person is).

Former Assistant District Attorney Gary Ackley explained that his preference when interviewing a witness was to use open-ended questions. “In my mind you should always want to ask open-ended questions – get the story their way. Keeping in mind that many times the blood unvarnished truth in the vocabulary of the witness is far better than and far more convincing than the way I would think of.”<sup>287</sup>

The “clear message” of the interrogation techniques used by Detective Bemo is that:

- (1) there is strong evidence linking Sneed to the murder of Mr. Van Treese;
- (2) the detectives believe that Sneed did not commit the murder alone, but with Richard Glossip;
- (3) if he fails to implicate Glossip in the murder, Sneed will received all the punishment that is to be doled out for this murder;
- (4) Glossip is putting the primary blame for the murder onto Sneed;
- (5) the way for Sneed to minimize some of his legal culpability and the consequences he faces is to implicate and shift the primary blame for the murder onto Glossip; and
- (6) and that if Sneed minimizes his intent and role in the crime, the detectives will relay this information to the district attorney.<sup>288</sup>

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<sup>286</sup> Appendix 2, Dr. Leo Report, at p. 11.

<sup>287</sup> June 2022 Reed Smith Interview of Former District Attorney Gary Ackley. Ackley also noted that he was “always concerned how Bemo came off to the jurors and the court” because of his size (6’3, approximately 260 lbs.) and that “he’s a commanding figure. Always concerned that he came off as surly, gruff, and intimidating.”

<sup>288</sup> *Id.* at 10.

Detective Bemo also interrogated Sneed by playing him off of Glossip's alleged statements,<sup>289</sup> and suggested to Sneed that his blameworthiness and potential consequences would go down if he provided the information Detective Bemo was seeking about Glossip. In fact, immediately after asking Sneed if he understood the Miranda warning that was just read and asking if he wanted to talk to them, Detective Bemo interjected:<sup>290</sup>

BY MR. BEMO: Okay. The thing about it is, Justin, we think -- we know that this involves more than just you, okay? We've got witnesses and we've got other people and we most likely have physical evidence. You know what I am saying, on this thing.

And right now the best thing you can do is to just be straightforward with us about this thing and talk to us about it and tell us what happened and who all was involved, because I personally don't think you're the only one.

When Sneed started to explain something about his brother, Wes Taylor, trying to set up a robbery, Detectives Bemo and Cook cut him off and steered the conversation back to Glossip.<sup>291</sup>

Not only does the interrogation itself illustrate Detective Bemo's injecting Glossip as being involved in the homicide, but Detective Bemo admitted to doing so under oath:

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<sup>289</sup> Many of the statements Detective Bemo used to elicit testimony from Sneed were outright lies, including Detective Bemo's statement that Sneed came to Glossip with the idea to rob and kill Mr. Van Treese and split up any money they got.

<sup>290</sup> January 14, 1997 Police Interrogation of J. Sneed at pp. 5:1-6:1.

<sup>291</sup> *Id.* at 18:1-20:10.

Q. At the beginning of that interview with Justin Sneed, did you tell him that you had some things that you wanted him to listen to before you said anything to him?

A. Yes.

Q. And didn't you tell him specifically that you knew that this crime was committed by more than just himself?

A. Yes.

Q. And you told him that you personally did not think that he was the only one involved in this homicide?

A. That's correct.

Q. In this interview before—or at least at some point in time before the end of the interview, you told him that Mr. Glossip was under arrest?<sup>292</sup>

A. Yes, I did.

Q. And you also told him that Mr. Glossip was the one who was laying it on him the heaviest as far as pointing the finger at Justin Sneed who committed the homicide?

A. Yes, I did.<sup>293</sup>

According to Dr. Leo, this is called, “playing one against the other” and it is a coercive tactic that can risk obtaining false information. “The use of minimization via the technique of ‘playing one against the other’ and the use of implied promises of leniency are considered psychologically coercive and increase the risk of eliciting false and unreliable information.”<sup>294</sup> This combined use of scripting Sneed’s testimony by naming Glossip, playing one suspect against

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<sup>292</sup> Glossip’s defense counsel’s question here is inaccurate, as Detective Bemo told Sneed that Glossip was arrested **at the beginning** of the interrogation, before Sneed had implicated himself or Glossip in the murder. Defense counsel failed to point this out, and also failed to play the videotaped interview for the jury, which would have demonstrated that Detective Bemo contaminated the interrogation by naming Glossip six times, signaling to Sneed that he should implicate Glossip. Notably, multiple jurors from the retrial expressed that they would have wanted to see the Sneed interrogation video. Further, the science on police interrogation and false confessions and accusations was “long-standing, well-established and generally accepted in the social scientific community in 2004 . . . [and] [n]umerous interrogation/false confession experts were available to consult with Mr. Glossip’s defense counsel, and/or testify on behalf of, Mr. Glossip at the time of his trial in 2004.” Appendix 2, Dr. Leo Report, at pp. 15-16.

<sup>293</sup> Trial 2 Testimony of B. Bemo, Vol. 14, at p. 70:7-24.

<sup>294</sup> Appendix 2, Dr. Leo Report, at p. 11.



the other, and minimizing culpability “are considered psychologically coercive and increase the risk of eliciting false and unreliable information.”<sup>295</sup>

#### **D. Criminal Justice Organizations Are Currently Re-Evaluating These Traditional Methods Of Police Interrogation As Producing Unreliable Information**

It should also be noted that the interrogation methods used by Detective Bemo in the 1990s — including pressure, trickery, and outright lies — are hallmarks of the Reid technique, which is being increasingly discredited as an effective interrogation technique within law enforcement, as it tends to produce a high percentage of false confessions.<sup>296</sup> Based on Detective Bemo’s use of these techniques and his contamination of Sneed’s interrogation, little credibility can be ascribed to Sneed’s statements about Glossip’s involvement in the murder. According to Dr. Leo, Sneed’s “implication of Richard Glossip in the murder of Barry Van Treese during his interrogation by Detectives Bemo and Cook contains no indicia of reliability and several indicia of unreliability; in my professional opinion, Justin Sneed’s uncorroborated confession statement is not a trustworthy piece of evidence against Richard Glossip.”<sup>297</sup>

#### **E. Subsequent Statements By Detective Bemo Reveal He Did Not Believe Sneed Intended To Murder Mr. Van Treese**

During a 2017 interview, Detective Bemo stated that Sneed “ended up killing Barry, and didn’t, I don’t know that he intended to, but he did.”<sup>298</sup> This and other statements Detective Bemo made cast doubt on the police’s — and later the State’s — theory of the case; that is, that Glossip masterminded this murder for hire and Sneed carried out Glossip’s wishes. For example, Detective Bemo stated that the motive was robbery and that Sneed “probably got a little carried away because he was mad because he got hit.”<sup>299</sup> These statements contradict Detective Bemo’s

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<sup>295</sup> *Id.*

<sup>296</sup> See Eli Hager, *The Seismic Change in Police Investigations*, The Marshall Project, Nonprofit Journalism about Criminal Justice (March 7, 2017 10:00 p.m.), available at [https://www.themarshallproject.org/2017/03/07/the-seismic-change-in-police-interrogations?utm\\_medium=email&utm\\_campaign=newsletter&utm\\_source=opening-statement&utm\\_term=newsletter-20170308-708#.OF0yiMfDd](https://www.themarshallproject.org/2017/03/07/the-seismic-change-in-police-interrogations?utm_medium=email&utm_campaign=newsletter&utm_source=opening-statement&utm_term=newsletter-20170308-708#.OF0yiMfDd); Robert Kolker, *Nothing But The Truth*, The Marshall Project, Nonprofit journalism about criminal justice (May 24, 2016), available at <https://www.themarshallproject.org/2016/05/24/nothing-but-the-truth>.

<sup>297</sup> Appendix 2, Dr. Leo Report at pp. 13-15, 17.

<sup>298</sup> Radical Media Interview with B. Bemo Interview at p. 8 (July 26, 2016).

<sup>299</sup> *Id.*

original hypothesis, that Glossip masterminded a murder for hire, which greatly contoured the police investigation and ultimately led to Glossip's arrest and conviction. If the jury had heard that the lead detective did not believe that Sneed intended to kill Mr. Van Treese, it is very likely the jury would not have convicted Glossip for a murder-for-hire. A murder-for-hire scenario is not possible where the killing was unintentional, and done in the course of a robbery gone awry.

### **VIII. The Police's Collection Of Evidence Raises Serious Chain Of Custody Issues And Lacked Attention To Detail Necessary For A Homicide Investigation**

The police investigation was marked by the tunnel vision of its lead detectives, numerous inconsistencies and other deficiencies with the collection, processing, documentation, and maintenance of evidence. Although some of the police department personnel appeared to be organized in their efforts to collect evidence, others were less so. Detective Fiely, currently a larceny detective for the Oklahoma Police Department, who previously worked in the department's lab, processed crime scenes, and was the first officer to begin processing the crime scene in this case in January 1997.<sup>300</sup> Detective Fiely kept handwritten notes<sup>301</sup> at the scene and later typed them up into his report.<sup>302</sup> Because of the way the lab shifts worked, however, there was no one person assigned to collect all evidence for an entire investigation. Because Detective Fiely was on the third shift, he collected evidence at night, and other officers collected evidence the next day and on subsequent days.<sup>303</sup>

#### **A. Failure To Collect Evidence And Secure Another Potential Crime Scene**

Although the police did collect some evidence from the motel and from Mr. Van Treese's vehicle, specific instances in which the police failed to properly collect evidence include:

- Police appear to have lost a surveillance video tape showing the night of the murder from the Sinclair Gas Station which was within walking distance from the Best Budget Inn motel,<sup>304</sup>

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<sup>300</sup> January 7 1997 Police Crime Scene Log.

<sup>301</sup> January 7, 1997 Detective Fiely's Handwritten Crime Scene Notes.

<sup>302</sup> January 9, 1997 Technical Investigation Report by J. Fiely.

<sup>303</sup> April 2022 Reed Smith Interview of Detective John Fiely.

<sup>304</sup> There is only one police record showing then-Patrol Officer O'Leary obtaining the videotape from the Sinclair Gas Station and handing custody of the videotape over to Lieutenant Horn. January 8, 1997 Police Report of M. O'Leary.

- Police did not process fingerprints from the steering wheel, gear shift, and glove compartment of Mr. Van Treese’s vehicle;<sup>305</sup>
- Although collected, it is unclear whether the police processed the fingerprints from the drinking glass located in Mr. Van Treese’s vehicle;<sup>306</sup>
- Police failed to fully photograph the denominations of money or the envelopes found in the trunk of Mr. Van Treese’s car;<sup>307</sup>
- Not all items found in Mr. Van Treese’s vehicle were logged (Officer McMahon testified, “[T]hey were not of any particular evidentiary value for us”);<sup>308</sup>
- Police failed to collect any DNA evidence from Mr. Van Treese’s body to determine if he was sexually involved with someone prior to the murder;
- A brown envelope Sneed said contained the money he and Glossip took from the car was never specifically identified or processed for fingerprinting and DNA;<sup>309</sup>

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Though the investigation did not locate any individual who had viewed the videotape contents, it is our understanding that the videotape shows the internal store and clerk’s register. This videotape could contain potentially exculpatory information but only the State has had it in its custody, control, and possession. Despite a motion by prior defense counsel, and multiple requests by this investigation to the Oklahoma County District Attorney’s Office and the Oklahoma Attorney General’s Office, no videotape has been turned over. This is the same videotape that Former Assistant District Attorney Gary Ackley is searching for.

<sup>305</sup> See January 11, 1997 Technical Investigations Report by J. McMahon, at p. 2 for what areas of the vehicle and items were processed for prints (*e.g.*, driver’s door exterior window glass, passenger’s door exterior window, exterior surfaces of vehicle).

<sup>306</sup> In the prosecutor’s closing statement in Glossip’s second trial, Assistant District Attorney Gary Ackley mentioned that “all the fingerprints that were identified were Mr. Sneed’s, even from the drinking glass that was right there by the driver’s seat of Barry Van Treese’s car . . . they weren’t of AFIS quality and they couldn’t be compared.” Trial 2, State’s Closing, Vol. 15 at p. 82:9-13. We have not located any information indicating whether those fingerprints were sent to AFIS at all, who performed the fingerprint analysis if not AFIS, or how the fingerprints could be identified as Sneed’s if they could not be compared.

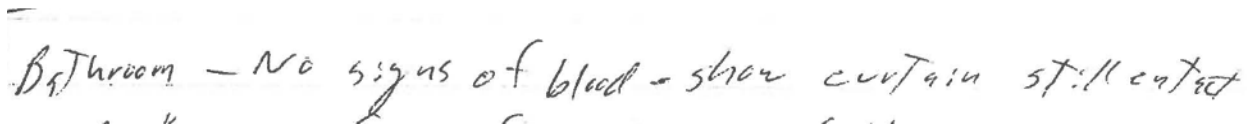
<sup>307</sup> State’s Exhibits 10, 11, 12, 82. These photographs only show that there was money found, but do not show all of the money laid out, nor the specific denominations. The photographs also do not completely document the handwriting on the outside of the envelopes containing the money which were accounting by Mr. Van Treese of motel deposits (cash and credit card amounts collected on specific dates). This was critical information to the defense to disprove the State’s motive theory that Glossip embezzled.

<sup>308</sup> Officer McMahon testified at trial that “[t]here were a lot of items, but they were not of any particular evidentiary value for us.” Trial 1 Testimony of Technical Investigator J. McMahon, Vol. 5 at p. 9:15-16.

<sup>309</sup> An envelope with a note was on the list of evidence that was destroyed in 1999. See Section VI., *supra*. Due to the police’s vague descriptions and failure to document in detail the evidence, there is no way to be sure what significance this item had to the case. However, we believe it is possible that this is the envelope Sneed was referring to.

- Best Budget Inn Oklahoma City motel financial records and daily reports from the motel's office were not collected;<sup>310</sup>
- Police never processed prints from the van in the Weokie Credit Union lot that was located next to the Mr. Van Treese's car with the steering column punched in;<sup>311</sup> and
- Police missed another potential crime scene as they failed to determine where the shower curtain that was hung to cover the broken window in room 102 came from.

Sneed testified the shower curtain covering the window in room 102 came from room 101,<sup>312</sup> yet Detective Fiely testified that the curtain was missing from the bathroom of 102, implying that is where the shower curtain on the window came from.<sup>313</sup> Neither the prosecution nor defense counsel raised this error for the jury to consider. In Detective Fiely's handwritten notes from January 7, 1997, documenting the crime scene, he plainly observed that the shower curtain in room 102 was "intact."<sup>314</sup>



Bathroom - No signs of blood - shower curtain still intact

Detective Fiely also photographed the intact shower curtain hanging in the bathtub in room 102 on January 7, 1997.<sup>315</sup>

<sup>310</sup> The police did collect deposit and receipt log books but destroyed them in 1999 per the District Attorney's instructions. See Section VI. for more information.

<sup>311</sup> A van was parked near Barry Van Treese's car at the credit union, and that van was the subject of a separate police incident report which was linked in police records to the Van Treese homicide investigation (Case No. 97-002261), but the police did not assign a detective to investigate further nor does it appear from police records that any follow-up done. January 7, 1997 Larceny Report by Officer Brown, Case No. 97-002287.

<sup>312</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 130:2-9.

<sup>313</sup> Trial 2 Testimony of J. Fiely, Vol. 10 at p. 73:21-23.

<sup>314</sup> January 7, 1997 Detective Fiely Handwritten Crime Scene Notes at p. 3.

<sup>315</sup> January 7, 1997 Room 102 Crime Scene Photos at p. 36, LWW 12510.



LWW 12510

Detective Fiely further documented on January 7, 1997, the second shower curtain covering the window and hung by duct tape.<sup>316</sup>



LWW 12457

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<sup>316</sup> January 7, 1997 Room 102 Crime Scene Photos at p. 46, LWW 12457.

Detective Cook was also on scene with Detective Fiely examining the room and its evidence.<sup>317</sup> Yet neither police officer realized that the shower curtain covering the window came from another source (besides room 102) and did not follow up on what that source was. This was another potential crime scene that the police missed. It was also relevant information to have during or after Sneed's interrogation to corroborate Sneed's statements.<sup>318</sup>

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Q. How about the shower curtain, getting it and putting it up over the window, whose idea was it that you needed to do something to cover the window?

A. Richard. He decided that we needed to do something to try to fix the window, which, you know, was really no argument there because that was kind of, you know, the window needed to be fixed and all of that. And so we went over to 101 and we was looking for something to be able to cover the window up and that's when I walked back into the bathroom part of that room and told him, I said, "Well, how about we just take this shower curtain?"

Q. Okay. So you all got the shower curtain, went back into room 102, and who taped it up?

A. I did.

In our April 2022 interview of Detective Fiely, when shown his handwritten crime scene notes and the crime scene photographs, Detective Fiely stated the following.<sup>319</sup>

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<sup>317</sup> February 24, 1997 Police Report of January 7, 1997 Crime Scene by Detective B. Bemo at p. 1. "It was decided that Insp. Cook would work the crime scene and Insp. Bemo was [sic] conduct follow-up interviews."

<sup>318</sup> Sneed testified that both him and Glossip went to room 101 and got the shower curtain to cover the window in room 102. Trial 2 Testimony of J. Sneed, Vol. 12 at 132:7-14.

<sup>319</sup> April 2022 Reed Smith Interview of Detective John Fiely. Detective Fiely's testimony that the shower curtain was missing from Room 102, are not supported by the photographs from the crime scene show that the shower curtain in Room 102 was hanging in the bathroom, or his handwritten notes from the crime scene which documented that the shower curtain is "intact." January 7, 1997 Detective Fiely's Handwritten Crime Scene Notes at p. 3; January 7, 1997 Room 102 Crime Scene Photos at p. 36, LWW 12510.

**Detective Fiely:** Okay, I got the picture, has the tube then hanging to the left is the shower curtain. Okay, so yeah, it's a shower curtain. So that one in the window, then, uh, is a second one.

**Question:** Okay, and do you know where that second one, the one hanging from the window, came from?

**Detective Fiely:** No.

When shown his testimony from Glossip's retrial, Detective Fiely noted his error on the stand:<sup>320</sup>

**Question:** Question, "Please tell the jury what you observed that appeared to be significant or noteworthy in the bathroom?"  
Answer, "This area was photographed and it was searched for any type of evidence. No evidence of blood or any objects of evidence were collected from this area. I did note, while in the bathroom where the shower is, that the shower curtain was missing from this room."

**Detective Fiely:** Okay.

**Question:** Do you

**Detective Fiely:** Yeah, that would be wrong then.

The failure by police to determine or follow-up on the source of the shower curtain covering the window raises some questions as to the police investigation's attention to detail or vetting of the information Sneed conveyed to the detectives.

It is equally troubling that, before Detective Fiely testified in Glossip's retrial, neither he nor the prosecutor eliciting his testimony realized this error.<sup>321</sup> Simply reviewing his handwritten notes and the crime scene photographs would have revealed that the shower curtain covering the window came from another room. Yet Detective Fiely testified that the shower curtain

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<sup>320</sup> April 2022 Reed Smith Interview of Detective John Fiely (emphasis added).

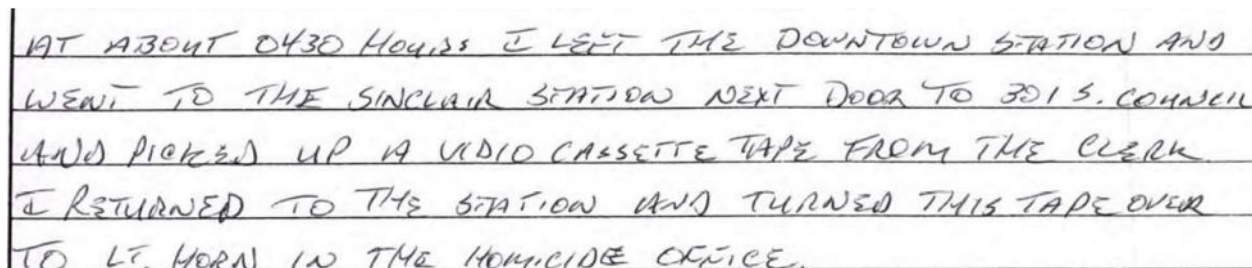
<sup>321</sup> In a May 2022 interview, former Assistant District Attorney Connie Smothermon stated that she and her co-counsel Gary Ackley "talked with every witness before we put them on the stand." May 2022 Reed Smith Interview of C. Smothermon.

covering the window came from room 102.<sup>322</sup> When Detective Fiely reviewed the relevant documents during his 2022 interview, he instantly determined that his testimony was a mistake.<sup>323</sup> This oversight calls into question the prosecution's vetting of witnesses' testimony before they took the stand and defense counsel for failing to raise this issue in cross examination.

## **B. Failure To Properly Maintain Evidence Raises Chain Of Custody Issues**

### **1. The Sinclair Gas Station Surveillance Tape**

The Sinclair Gas Station surveillance tape from the night of the murder – which purportedly would have shown information highly relevant to corroborating Sneed's statements made to police, like the exact time Sneed came to the gas station, if he was with anyone else, whether Mr. Van Treese came to the gas station and when, among other valuable pieces of information – was collected by then patrol Officer O'Leary and given to Lieutenant Horn, who was overseeing the investigation.<sup>324</sup>



AT ABOUT 0430 HOURS I LEFT THE DOWNTOWN STATION AND  
WENT TO THE SINCLAIR STATION NEXT DOOR TO 301 S. COUNCIL  
AND PICKED UP A VIDEO CASSETTE TAPE FROM THE CLERK  
I RETURNED TO THE STATION AND TURNED THIS TAPE OVER  
TO LT. HORN IN THE HOMICIDE OFFICE.

The close proximity of the Sinclair Gas Station (left) to the Best Budget Inn motel (right) can be seen in the photograph on the next page.

<sup>322</sup> Trial 2 Testimony of Detective J. Fiely, Vol. 10 at p. 73:21-23 (testifying that the shower curtain was missing from room 102).

<sup>323</sup> See April 2022 Reed Smith Interview of Detective John Fiely.

<sup>324</sup> January 8, 1997 Police Report by M. O'Leary.



Sinclair Gas Station

Best Budget Inn Motel



In a May 2022 interview with former Lieutenant Horn, he confirmed his usual practice would have been to give that kind of evidence to the detectives in charge of the investigation.<sup>325</sup> However, we have been unable to locate any report from Lieutenant Horn documenting this transfer of custody to the homicide detectives or the Property Management Unit room.

There is also no police report that we have located indicating whether anyone watched the videotape or followed up on anything on the videotape. In an October 29, 2003 email, Connie Smothermon, the Assistant District Attorney who prosecuted Glossip in his second trial, when asked about the status of the Sinclair Gas Station videotape, stated that “OCPD never booked a video tape into evidence. There is some confusion as to whether one was looked at or actually taken by an officer. Either way, it never made it to this case file. The information I have is that any video tape would be of the interior of the station only.”<sup>326</sup>

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<sup>325</sup> May 2022 Reed Smith Interview of Lieutenant Bob Horn.

<sup>326</sup> October 29, 2003 email from Assistant District Attorney Connie Smothermon to then defense counsel for Glossip.

**From:** <ConnieP@oklahomacounty.org>  
**To:** <Lynn@oids.state.ok.us>  
**Date:** 10/29/03 8:57AM  
**Subject:** RE: Richard Glossip

OCPD never booked a video tape into evidence. There is some confusion as to whether one was looked at or actually taken by an officer. Either way, it never made it to this case file. The information I have is that any video tape would be of the interior of the station only.

Gary is finishing the HAC response and will file it within the hour.  
Thanks,  
Connie

Officer O'Leary's police report contradicts the statement regarding whether a videotape was taken by an officer.<sup>327</sup> And Assistant District Attorney Fern Smith's statements in a 1998 pretrial hearing also seem to contradict Ms. Smothermon's statement. At this May 1998 hearing, Ms. Smith discussed the Sinclair tape with the Court and defense counsel who had brought a motion to compel its production. Specifically, Ms. Smith informed the Court that "[w]e do not believe that it has any evidentiary value" and "[i]t's a tape of who goes in and out of Sinclair station."<sup>328</sup> If this is the case, the videotape could have potentially exculpatory information or at the very least highly relevant information (*e.g.*, corroborating or disproving Sneed's statements as to when he went into the Sinclair Gas station the night of the murder, or if Sneed was with anyone other than Glossip). Ms. Smith went on to state that "[i]f it's available, I assume it's in the property room,"<sup>329</sup> and "if he wants it and the court orders me to, I'll try to get it for him but I had previously talked with him and he told me that he did not want it and that's the only reason he doesn't have it."<sup>330</sup> At no time did Ms. Smith inform the Court that this videotape did not exist or had been lost by police.<sup>331</sup> We could find no evidence that the State ever produced the Sinclair

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<sup>327</sup> January 8, 1997 Police Report by M. O'Leary.

<sup>328</sup> May 29, 1998 Pre-Trial Motions Hearing, Case No. CF-97-244 at p. 12:7-9.

<sup>329</sup> *Id.* at 12:3-11.

<sup>330</sup> *Id.* at 14:5-9.

<sup>331</sup> In fact, the Court asked the State "Do you object to releasing the videotape to him?" and the State's response was "Yes, I do, Judge, the original. I don't mind copying it for him if we can do that or trying to watch it together." May 29, 1998 Pre-Trial Motions Hearing, Case No. CF-97-244 at p. 32:16-20.

Gas Station videotape or made a copy of it for Glossip's defense counsel despite these representations made to the Court.

This investigation has made multiple open records requests to the Oklahoma City Police Department and the Oklahoma County District Attorney's Office for this videotape and other items. A recent search for the videotape by police, in response to our requests, determined that the tape is not in the Police Department Property Management Unit room, the Digital Evidence Management Unit, or the Homicide Unit.<sup>332</sup> In fact, the tape does not appear to be in police custody at all, but instead, according to the police, was turned over with the rest of the case file to the District Attorney's office.<sup>333</sup> In connection with this independent investigation, records requests were made to the District Attorney's office, seeking the Sinclair Gas Station tape and all other records related to the Glossip case.<sup>334</sup> That request was initially declined in its entirety, in part because the District Attorney's office stated that the records we are seeking are available from other agencies, including law enforcement.<sup>335</sup> In response to our subsequent request for the Sinclair Gas Station surveillance videotape from the night of the murder, we have learned that District Attorney Prater has recently asked former Assistant District Attorney Gary Ackley to come out of retirement to search for this videotape.<sup>336</sup> Mr. Ackley informed us that he has recommended to District Attorney Prater to send the three VHS videotapes he found in the Glossip case file to the Oklahoma State Bureau of Investigation's Forensic Video Analyst to determine what is on them. Mr. Ackley could not advise how long this would take.<sup>337</sup>

It is unclear whether the District Attorney's Office or the police lost the videotape and it is also uncertain why the prosecution never raised this issue again with the Court considering defense counsel had filed a motion in 1998 to obtain it and there was a subsequent Court hearing about this specific piece of evidence. Regardless, significant concerns are raised by this mishandling of relevant and potentially exculpatory evidence.

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<sup>332</sup> May 18, 2022 email chain between various police personnel in response to our open records request.

<sup>333</sup> *Id.*

<sup>334</sup> March 7, 2022 email from Reed Smith to District Attorney David Prater, following up on a February 25, 2022 letter requesting the Glossip case files and evidence.

<sup>335</sup> March 10, 2022 Letter from District Attorney David Prater to Reed Smith.

<sup>336</sup> June 2022 Reed Smith Interview of Former District Attorney Gary Ackley.

<sup>337</sup> *Id.*

## 2. Premature Release Of Evidence

The police also released critical evidence to the family prematurely, including:

- \$23,100 found in Barry Van Treese's trunk;<sup>338</sup>

1 A From the Oklahoma City Police Department and their --  
2 Q Oklahoma City Police Department?  
3 A Yes.  
4 Q And when you received it back, was it in the envelope  
5 that it is depicted in, State's Exhibit Number 10?  
6 A Yes.  
7 Q And did you recognize what that money was?  
8 A Yes, I did.

- Envelopes with handwritten accounting containing the \$23,100 found in the Mr. Van Treese's vehicle, and Kenneth Van Treese, Mr. Van Treese's brother, had to fax the envelopes back on January 20, 1997;<sup>339</sup>

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Jan-20-97 10:35 Wood Concepts Inc

DATE	AMT
12-6	665.
12-7	820
12-8	490
12-9	110
12-10	395.
12-11	750.

340

<sup>338</sup> Trial 1 Testimony of D. Van Treese, Vol. 5, 85:1-86:11.

<sup>339</sup> See State's Exhibit 82. We note that the police released these pieces of evidence *before* the State had charged Glossip for Murder I. See Case Record, Office of the District Attorney, Oklahoma County, Oklahoma at p. 1 (January 21, 1997); January 23, 1997 Amended Information, Case No. CF9700244, LWW 5827.

<sup>340</sup> Wood Concepts, Inc. is Kenneth Van Treese's business. See <https://www.woodconcepts.org/>

- Money<sup>341</sup> found in the trunk, which was never fully photographed,<sup>342</sup> not tested for fingerprints or any other DNA evidence, and the denominations of which were never catalogued,<sup>343</sup> and
- Mr. Van Treese's vehicle,<sup>344</sup> before Glossip's defense team were allowed to view or examine the contents.<sup>345</sup> Pike Pass records show the car was released no later than January 14, 1997.<sup>346</sup>

This is perhaps because, as noted above, the police determined what they thought had "particular evidentiary value"<sup>347</sup> for their purposes. Whatever the reason, releasing evidence to the family is problematic and deprived Glossip's defense team of the right to evaluate whether there was important evidence for their defense.<sup>348</sup> Retired Master Sergeant O'Leary said that he would not have released anything to anyone at that point in the investigation.<sup>349</sup>

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<sup>341</sup> Including \$23,100 in cash contained in envelopes with handwritten accounting by Mr. Van Treese detailing the money he picked up from the motel for several months in 1996. This information was critical to the defense as it could have disproved the embezzlement motive the State was asserting against Glossip.

<sup>342</sup> State's Exhibits 10, 11, 12, 82 only show portions of the money located in the trunk.

<sup>343</sup> See January 11, 1997 Technical Investigations Report of J. McMahon (listing the \$23,100 but not the denominations).

<sup>344</sup> See January 14, 1997 Pike Pass records showing usage.

<sup>345</sup> See, e.g., May 1998 Pretrial Hearing, 11:23-12:1 (Defense counsel seeking to inspect the car that was returned to Ms. Van Treese).

<sup>346</sup> State's Exhibit 50.

<sup>347</sup> See Trial 1 Testimony of J. McMahon, Vol. 5 at p. 9:15-16 ("There were a lot of other items, but they were not of any particular evidentiary value for us.")

<sup>348</sup> Furthermore, even if the items were not needed as evidence, the return of property at the very least required that the Chief of Police apply to the District Court to return the property, and that a hearing be conducted.

<sup>349</sup> May 2022 Reed Smith Interview of Officer O'Leary.

## **IX. Other Deficiencies In The Police Investigation**

“Prosecutions must be based on final and thorough investigations by law enforcement agencies.”<sup>350</sup>

We agree with this principle and recognize that, if the police fail to conduct a credible investigation, then faith in the arrest and prosecution of a suspect, and in the evidence presented to the jury at trial may be eroded. The prosecution represented to the Glossip jury that it had “every right to know that the police did a credible investigation.”<sup>351</sup>

Based on the investigation, however, it appears that the Oklahoma City Police Department conducted a deficient and curtailed investigation in this case, both during the missing person phase of the investigation before Mr. Van Treese was found, and then after the police located Mr. Van Treese’s body and it became a homicide investigation. According to the current Oklahoma City Police Department’s Operations Manual, the purpose for a criminal investigation is to “produce evidence relating to the guilt or innocence of any suspect,” not just to find evidence of guilt.<sup>352</sup> This includes interviewing victims and witnesses and identifying and preserving physical evidence that might go to guilt or innocence.

### **540.10 Investigation of Reported Crimes**

Follow-up investigation consists of efforts to interview victims and witnesses; locate, identify, and preserve physical evidence, recover stolen property, identify, locate, interview, and arrest suspects; present the case to the prosecutor, and cooperate in the prosecution of the defendant. Such investigations are conducted to produce evidence relating to the guilt or innocence of any suspect and to recover property.

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<sup>350</sup> “Attorney General O’Connor Agrees to District Attorney Prater’s Request to Take Back the Investigation Into Epic,” Office of the Oklahoma Attorney General, <https://www.oag.ok.gov/articles/attorney-general-oconnor-agrees-district-attorney-praters-request-take-back-investigation#:~:text=Investigation%20Into%20Epic-,Attorney%20General%20O' Connor%20Agrees%20to%20District%20Attorney%20Prater's%20Request,investigation%20into%20Epic%20Charter%20Schools>.

<sup>351</sup> Trial 2 State’s Closing, Vol. 15, at p. 83:10-13.

<sup>352</sup> Oklahoma City Police Department Operations Manual, Section 540.10 at p. 27 (5<sup>th</sup> Edition, Updated December 2021).

Thus, if an investigation is not done properly, key evidence may be mishandled, or never collected at all, and this could lead to a guilty person not being apprehended, or an innocent person incarcerated.

The police investigation into Mr. Van Treese's homicide was deficient in several regards, including: (1) failure to pursue other leads beyond what fit the early-formed hypothesis that Glossip was the mastermind, (2) failure to interview relevant witnesses who had information regarding the crime, and (3) failure to follow up on information provided to them. The police appeared to have tunnel vision from the early stages which contoured the investigation to its detriment. The investigation also seemed to involve a haphazard and error-ridden process rather than a meticulous and evidence-based approach which should be the standard for any homicide case.

For example, civilians such as Everhart and Sneed were allowed to search the motel for Mr. Van Treese, and the police *relied* on this search rather than conducting their own search of the motel.<sup>353</sup> In addition, Everhart was allowed to assist the police in opening the door to the room 102 crime scene and then enter the room leaving behind a discarded soda cup potentially contaminating the crime scene.<sup>354</sup> The police then mistakenly identified Everhart as the "clerk" of the motel when they documented the issue.<sup>355</sup>

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<sup>353</sup> See, e.g., January 7, 1997 Police Report of J. Wheat.

<sup>354</sup> Police Crime Scene Photos, at p. 38, LWW 12503. Officer Brown later informed Detective Fiely that the "clerk" (not Everhart) had left the soda. January 8, 1997 Technical Investigations Report of J. Fiely at p. 3; April 2022 Reed Smith Interview of Detective J. Fiely.

<sup>355</sup> Detective Fiely confirmed that Officer Brown told him the "clerk" of the motel had left the soda cup, when in fact it was actually Everhart. Detective Fiely vividly recalls this conversation as he gave Officer Brown a hard time for allowing the clerk to enter the room. It is unclear whether Officer Brown inadvertently wrote "clerk." April 2022 April 2022 Reed Smith Interview of Detective Fiely.



LWW 12503

Potential additional crime scenes were missed or not followed up on, such as the white van broken into close to where Mr. Van Treese's vehicle was found at the Weokie Credit Union,<sup>356</sup> or the source from where the shower curtain hung over the window in room 102 was obtained.<sup>357</sup> Relevant witnesses were not identified (such as the multiple other guests staying at the motel the night of the murder),<sup>358</sup> and known witnesses were not interviewed.<sup>359</sup> The witness interviews that were conducted were largely perfunctory. For example, John Prittie, the guest staying in room 103 (the room right next to the room Mr. Van Treese was found murdered in), was not shown by police any lineup of photographs that would have included Sneed and Glossip to see if the two male individuals he saw the next morning hanging Plexiglass were in fact Sneed and Glossip. We note this deficiency because it is indicative of the police not making the effort to confirm this information with Prittie even though they could easily have done so. There were

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<sup>356</sup> January 7, 1997 Larceny Report of T. Brown.

<sup>357</sup> See Section VIII.A.

<sup>358</sup> See State's Exhibit 77, Best Budget Inn Oklahoma City Motel Daily Report for January 6, 1997.

<sup>359</sup> For example, there is no police report or record of a police interview of Everhart who found the body in room 102 with Officer Brown, Ms. Van Treese, or Kenneth Van Treese.



few, if any, follow up interviews by police with other witnesses. These deficiencies of the police investigation are summarized below.<sup>360</sup>

### **Specific Examples of Police Investigation Failures**

#### **1. Before The Body Was Found, Only Civilians (Including The Actual Murderer) Conducted A Search Of The Motel Rooms For Mr. Van Treese**

The police initially ceded responsibility to two civilians, Everhart and Sneed (the actual murderer), to search the motel for Mr. Van Treese instead of the police conducting the search themselves.<sup>361</sup> It took police several hours, until around 9:50 p.m., to check room 102 (despite their being a broken window) and discover Mr. Van Treese's body.<sup>362</sup> During this time, Sneed could have destroyed or hidden evidence associated with the murder. While the police claim they were diverted away from room 102 by statements from Glossip, there was an obvious broken window in room 102, and the police received information of a fight that had occurred inside the room. It is inexplicable why the police did not check room 102 earlier and relied on civilians to conduct the search.

#### **2. The Police Failed To Follow Up On Leads That Could Have Been Relevant To The Murder**

A handwritten note was found in room 102 with the name "Ronald Morgan" and an address and phone number.<sup>363</sup>

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<sup>360</sup> Our investigation is based on a review of the police reports made available to us from the files of Glossip's defense lawyers, as well as any additional reports we have been able to obtain during the course of our investigation through the Municipal Counselor's Office for the City of Oklahoma City, in addition to a review of the testimony of police witnesses at trial and other hearings. Requests were made to the District Attorney's Office for the release of all reports associated with this case, but we have not received any reports or other documents from the District Attorney's Office, so it is possible that additional reports exist that we were not provided.

<sup>361</sup> March 11, 1997 Supplement Report of B. Bemo (detailing interview of Deputy Sheriff Matt Steadman), at p. 3; January 7, 1997 Supplement Report of J. Wheat at p. 1.

<sup>362</sup> January 9, 1997 Supplement Report of T. Brown at p. 2.

<sup>363</sup> January 9, 1997 Technical Investigation Report of Technical Investigator Fiely [Crime Scene], pp. 3-4.

RONALD (A.I.A. 7/14)  
MORGAN  
BOX 37 BURNS FLAT OIL  
73624 562-4802  
WATSKG

There is no record of police making any attempt to contact Mr. Morgan to determine if he had any connection to Mr. Van Treese or his murder. During our investigation, we were able to contact Ronald Morgan, who is now elderly. We contacted him using the same information written on the note found at the murder scene. Morgan confirmed he was never contacted by the Oklahoma City Police.<sup>364</sup>

In our 2022 interview, Morgan recalled that he had met Mr. Van Treese on one or two occasions. Both Morgan and Mr. Van Treese were HAM radio enthusiasts and saw each other at a few HAM fests. Although they only met a few times, they frequently communicated over their HAM radios. Morgan was also an Electrical Contractor. Mr. Van Treese had a motel in Weatherford, OK that was in disrepair and knew Morgan could probably help him out with the electrical work that needed to be performed.<sup>365</sup> Morgan explained that he wrote the note that was found at the crime scene approximately two years before the murder when Mr. Van Treese asked if Mr. Morgan could help him out. Due to the police failing to follow up on evidence found at the crime scene, we will never know what, if any, additional information Mr. Morgan could have provided if he had been contacted right after the murder, instead of decades later.

<sup>364</sup> May 2022 Reed Smith Interview of Ronald Morgan.

<sup>365</sup> *Id.*

Another failure involves the \$23,100 in cash police found in the trunk of Mr. Van Treese's vehicle.<sup>366</sup> 16 hundred dollar bills were stained with blue dye, and the police suspected the money may have been stained during the course of a robbery.<sup>367</sup>

INSIDE THE TRUNK \$23,100 IN U.S. CURRENCY WAS FOUND IN VARIOUS ENVELOPES WHICH WERE CONTAINED WITHIN SOME CARDBOARD BOXES AND PLASTIC BAGS. SOME OF THE BILLS WERE STAINED BLUE BY SOME TYPE OF BLUE DYE/SUBSTANCE. LT. HOILE BELIEVED THAT THOSE PARTICULAR BILLS MAY HAVE BEEN STAINED BLUE DURING THE COURSE OF SOME TYPE OF ROBBERY AND THAT THEY MAY HAVE BEEN BAIT MONEY WITH THE SERIAL NUMBERS RECORDED AND REPORTED STOLEN. 16-NEW \$100 BILLS WERE AFFECTED BY THE DYE AND THOSE 16 SERIAL NUMBERS WERE RECORDED AND GIVEN TO T. HOILE TO CHECK THE SERIAL NUMBERS. \$90.00 IN TRAVELERS CHECKS, A \$28.64 COMMERCIAL CHECK AND A RECEIPT FOR A CASHIERS CHECK (AMERICAN NATIONAL BANK

The police, however, did not photograph all of the money and instead photographed bundles (pictured, next page). The police also failed to catalogue the denominations for the \$23,100.<sup>368</sup>



<sup>366</sup> January 11, 1997 Technical Investigations Report by J. McMahon at p. 4.

<sup>367</sup> *Id.*

<sup>368</sup> State's Exhibit 10, 11, 12, 82 show only partial views of some bundles of the money.



While the police documented the serial numbers for 16 one hundred dollar bills containing the blue dye (pictured, next page), it does not appear that any follow up was done to check the serial numbers to determine if the money came from a robbery, or where it might have come from.

100 - AJ05308709 A  
AJ01659343 A  
AJ00824502 A  
AJ05667085 A  
AJ05320030 A  
AL47347051 A  
AJ05054720 A  
AL15701774 A  
AB60989144 B

100 - AL37765598 A  
AB91935758 B  
AK20996264 A  
AJ00727367 A  
AJ00073618 A  
AJ00621472 A  
AJ00563572 A

Based on the lack of follow up and subsequent release of the money to the Van Treese family, the police did not seem to view such a large amount of cash found, including some stained with blue dye, as relevant to the homicide investigation. We cannot determine why.

Around the time of the murder, a person described as a transient who was staying at the motel was seen leaving to catch a cab to the bus station. This individual left behind all of the belongings in his room.<sup>369</sup>

WITH INFORMATION RECEIVED FROM SEVERAL SOURCES FROM THE MOTEL, SGT. BROWN FELT THAT FOUL PLAY COULD BE INVOLVED. INFORMATION ON A TRANSIENT TYPE INDIVIDUAL STAYING AT THE MOTEL HAD LEFT IN A CAB TO GO TO THE BUS STATION. THIS ROOM WAS CHECKED BY MOTEL MANAGEMENT AND FOUND THE SUBJECT HAD LEFT A LARGE BAG WITH ALL HIS CLOTHES.

I ADVISED SGT. BROWN TO MAKE CONTACT WITH ANYONE THAT MIGHT HAVE INFORMATION ON THE TRANSIENT INDIVIDUAL, I.E. CHECK AT SINCLAIR STATION, CAB COMPANY, BUS STATION, MOTEL CLERK. SGT. BROWN CONTINUED TO FOLLOW UP THESE INDIVIDUALS AND RELAYING INFORMATION BACK TO ME. SGT. BROWN

Officer Brown was told by Pursley that this individual had been at the gas station at 4:25 a.m., which was right around the time of the murder, and had asked for the number of the cab company and appeared to have been in a fight.<sup>370</sup>

P PURSLEY ADVISED THAT APPROX. 4:25 A.M., ED FROM ROOM #237 CAME OVER TO THE STORE AND ASKED HER IF SHE KNEW THE PHONE NUMBER TO THE CAB COMPANY. SHE ADVISED HE SEEMED CALM, HOWEVER, WAS KINDA RED IN THE FACE AND HIS HAIR WAS WTICKING UP, AS IF SHE MIGHT HAVE JUST GOT UP OR BEEN IN SOME KIND OF A FIGHT.

Nevertheless, and although he was asked to look into this potential suspect, Officer Brown testified that he had no idea if anyone ever followed up to determine who this person was.<sup>371</sup>

<sup>369</sup> January 7, 1997 Supp. Police Report of J. Cave.

<sup>370</sup> January 7, 1997 Supp. Report of T. Brown.

<sup>371</sup> October 1, 1997 Sneed Preliminary Hearing at pp. 11:11-20, 12:3-5.

11 Q Initially, were you looking for someone, a possible  
12 suspect, that may have tried to take out a town in the middle  
13 of the night on a bus that had stayed at the hotel?

14 A I was told by both Mr. Everhart and Mr. Glossip that  
15 there was a subject in Room 237 that had taken off in the  
16 early morning hours, just after the window had gotten broken  
17 out, or right in the same time period.

18 Q Were you ever able to determine who that individual  
19 was?

20 A No.

3 Q So if I can clarify, you don't remember whether anybody  
4 ever followed up on that or not?

5 A No, I don't have any idea.

This potential witness, or possible suspect, was never located since the police did nothing to try and find him. This shows the tunnel vision and curtailed investigation done by the police.

### **3. The Police Failed to Follow Up Or Confirm Statements Made by Witnesses Including Inconsistencies Among Witnesses**

There were multiple statements as to how much money Mr. Van Treese picked up from the motel on January 6, 1997, but the police never attempted to confirm how much money Mr. Van Treese in fact collected. This proved to be a critical issue in the case and would not have been too laborious a task using the motel's financial records. The prosecution argued it was \$4,000 based on Sneed's statements to Detective Bemo (see below). It does raise questions why

the police simply accepted this amount without independently verifying it using the motel's daily reports and deposit/receipt logs the police had collected from Mr. Van Treese's vehicle. It is particularly puzzling as there were different amounts provided by various witnesses such that the police should have independently verified using the financial records. Instead, the police went with the \$4,000, and asserted the money that Glossip had on his arrest (\$1,757) must have come from Mr. Van Treese.<sup>372</sup> Sneed had told police he had gotten about \$1,900.<sup>373</sup> \$4,000 would seem to fit the hypothesis that Sneed and Glossip were in this together and split the money. The evidence, however, indicates that was not accurate, including what witnesses stated right after the murder.

**Approximately \$2500.00**<sup>374</sup>

HAI HE WOULD PICK UP BUILDING SUPPLIES TO WORK ON ROOM #112 AT THE BUDGET INN. \*IP (CLIFFORD EVERHART STATED THAT THE MR BARRY VANTRESESE WAS CARRYING APPROXIMATELY \$2500.00 IN CASH FROM THE BUSINESS) THE MP'S VEHICLE WAS UNLOCKED WHEN IT WAS FOUND BY IP DEPUTY MATT STEADMAN. ←

**At least \$2855.00**<sup>375</sup>

THAT VICTIM'S CAR WAS IN THE LOT AT 0730 WHEN THEY ARRIVED. \*VICTIM HAD SPENT THE NIGHT AT THE MOTEL, WHICH HE OWNS, AND HAD A LARGE AMOUNT OF CASH, AT LEAST \$2855.00, IN HIS POSSESSION. [STEADMAN] ADVISED VICTIM'S CAR WAS UNLOCKED. (HE HAD GOTTEN INTO IT TO ATTEMPT TO FIND SOME I.D. INSIDE.)

**\$2877.00**<sup>376</sup>

Billye said that before she left for the day, Barry had Rich bring him the money. She said that later after Barry's body was discovered, she was asked by Cliff to run a tally on how much money Barry had been given. She said that if the dailies were correct, she figured \$2877.

<sup>372</sup> No DNA evidence was found on Glossip's money, and the serial numbers were not sequential or match the money Sneed had. See Court's Exhibit 2, Stipulation of M. Keith. Glossip's money also had different denominations than Sneed's money, and Sneed's money contained his own blood on them. See State's Exhibits 6, 7.

<sup>373</sup> January 14, 1997 Police Interrogation Transcript of J. Sneed at p. 37:5-7.

<sup>374</sup> January 7, 1997 Supp. Missing Person Police Report of J. Gibbons.

<sup>375</sup> January 8, 1997 Supp. Missing Person Police Report of J. Wheat.

<sup>376</sup> January 9, 1997 Supp. Police Report of B. Cook.

**About \$3,000.00**<sup>377</sup>

AT 2100 HRS., I SPOKE AGAIN WITH MR. GLOSSIP ABOUT VICTIM VANTREESE AS I WAS STILL CHECKING IN THE AREA FOR HIM. AT THAT TIME MR. GLOSSIP ADVISED ME THAT THE LAST TIME HE SAW VICTIM VANTREESE WAS AT 2000 HRS., 1/06/97, AS HE WAS LEAVING FOR TULSA, AND THAT VICTIM VANTREESE HAD JUST PICKED UP ABOUT \$3,000.00 IN CASH FROM HIM.

**"A little less than five" ... "A little less than four" ... "Right at 4,000"**<sup>378</sup>

BY MR. BEMO: How much money did you get?

BY MR. SNEED: Like about \$1900. I mean, he told me that the guy was sitting on like 7,000 but it only come up to being a little less than five, I think.

BY MR. BEMO: 5,000?

BY MR. SNEED: No. A little less than four, right at four.

BY MR. BEMO: Right at 4,000. So

Best Budget Inn Tulsa Motel manager William Bender said to police that Mr. Van Treese told him about 2,500 missing registration cards in Oklahoma City,<sup>379</sup> however, there is no record that they did anything to vet this information or follow up on Bender's claims. The police could have followed up with Hooper, Ms. Van Treese, or another Best Budget Inn employee.

Detective Bemo additionally noted in his police report that he "was not clear" on what Bender was trying to tell him regarding Mr. Van Treese's stated intentions.<sup>380</sup>

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<sup>377</sup> January 7, 1997 Supp. Police Report of T. Brown at p. 3.

<sup>378</sup> January 14, 1997 Police Interrogation of J. Sneed at p. 37:5-13.

<sup>379</sup> March 4, 1997 Supp. Police Report of B. Bemo at pp. 1-2.

<sup>380</sup> *Id.* at 5.



something Bender had told me. Bender told me, after Barry leaves the motel and then calls back to give his wife a message, part of the message was "Rich was going to be told he had a week to get his act together!" I said to Bender this statement indicated to me that Barry was going to allow Rich to stay in the motel. Bender said no. Bender believes it was only the amount of time Rich had to get the money. But I asked, I thought Barry was suppose to collect the money that night? Bender said right. Bender said we are talking about money that Rich has stolen from Barry. I never was quite clear on what Bender was trying to tell me. I can only think that if Rich did not have the money, Barry was going to give Rich a week to get the money together. This part of Bender's statement was not clear to me. I did ask Bender if it was his impression Barry was driving to Lawton that same morning? Bender said it was.

Despite this observation, it does not appear that the police did anything to try and clarify or confirm Bender's statements.<sup>381</sup> Bender also stated that Mr. Van Treese told him that he had no money when he arrived in Tulsa after first going to the Oklahoma City Best Budget Inn.<sup>382</sup>

At this time I wanted to clarify something Bender had said earlier in the interview. I asked Bender again about his statement, that the victim indicated he had no money when he arrived in Tulsa? Bender said the victim indicated to him he had no money. That he was returning to Oklahoma City to pick up money. Bender said that the victim was not when

This is, however, was contradicted by several other witnesses (Hooper, Wood, Glossip), yet it appears that the police did not do anything to follow up on this beyond asking Bender for clarification. Despite the many inconsistencies in Bender's account, he was a critical witness for the State at Glossip's retrial, and was allowed to testify to numerous hearsay statements purportedly made by Mr. Van Treese on January 6, 1997.

#### **4. The Police Failed To Interview Several Critical Witnesses, Including Witnesses Who Ended Up Testifying At Trial**

Detectives only interviewed a total of four residents/guests of the Oklahoma City Best Budget Inn motel (excluding defendants Sneed and Glossip, Wood, and Jackie Williams, the housekeeper) out of 19 rooms that were occupied the night of the murder.<sup>383</sup> The police should

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<sup>381</sup> *Id.*

<sup>382</sup> *Id.* at 3.

<sup>383</sup> Based on daily reports, there may have been multiple guests per room.

have canvassed all of the rooms in the motel to determine if there were any additional witnesses to what occurred. This is especially critical since Sneed testified that Glossip accompanied him to room 102, and also to Sneed's room to divide the money, yet there was not a single witness who saw Glossip out around the motel at the time of the murder. Sneed, however, was seen by Pursley at the Sinclair Gas Station before the murder occurred.<sup>384</sup>

In addition, there is no evidence that the police interviewed (or attempted to locate) the following witnesses, some of whom provided critical trial testimony, and others who may have had relevant information to provide, including information that might have either corroborated or refuted statements made by other witnesses, including Sneed.

- **Donna Van Treese**: Ms. Van Treese testified at trial and provided key evidence the prosecution used to establish Glossip's purported motive, including testimony that Mr. Van Treese was on his way to Oklahoma City to fire Glossip for stealing from the motel. None of this was told to the police. Ms. Van Treese could have provided information regarding the money found in her husband's car and perhaps some of the other items that were located and their significance. Ms. Van Treese also could have provided more information on the whereabouts of her husband the day of the murder, including what he was doing and who he was with the hours leading up to the murder.<sup>385</sup> Ms. Van Treese told the police on January, 7, 1997 that that her husband had left home in the *morning*,<sup>386</sup> but at trial she testified that he left at 3:30 p.m.<sup>387</sup> A detailed interview could have solidified these facts and avoided inconsistent trial testimony on an important fact. If Mr. Van Treese really did leave in the morning, his whereabouts that entire day would certainly be relevant and something the police should have investigated.

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<sup>384</sup> March 14, 1997 Police Report of B. Bemo at p. 2.

<sup>385</sup> At some point it appears as if someone spoke with Ms. Van Treese because we found notes related to her anticipated trial testimony. Nevertheless, no police reports have been turned over regarding Ms. Van Treese's statements.

<sup>386</sup> January 7, 1997 Supp. Police Report Missing Persons of J. Wheat at p. 1.

<sup>387</sup> Trial 2 Testimony of D. Van Treese, Vol. 4, at p. 79:6-9.

Mr. Van Treese left on “Monday morning”<sup>388</sup>

KEYS. MRS. VANTRESSE ADVISED THAT VICTIM LEFT LAWTON ON MONDAY MORNING, WAS TO COME TO OKC, TO BEST BUDGET INN, THEN GO ON TO TULSA. VICTIM

Mr. Van Treese left on Monday “approximately 3:30 p.m. in the afternoon”<sup>389</sup>

Q. Okay. All right. So what day then did he leave for this motel trip?

A. January the 6th, 1997, approximately 3:30 in the afternoon and that was on a Monday.

- It appears that Ms. Van Treese was interviewed by someone prior to trial, as there are notes to that effect in the prosecution’s files, yet there is no record of any interview notes or witness statement from Ms. Van Treese.<sup>390</sup>

#10 - Witness is the victim's wife. Witness can talk about how security conscience the victim was. Also, about how concerned that the mgt. in OKC (operating his motel) was stealing his blind.

- **Cliff Everhart** (motel security, claimed to be part owner of the motel):<sup>391</sup> Everhart was a critical trial witness, who provided testimony regarding Glossip’s purported motive and other corroborative evidence (intent to flee). Everhart testified that

<sup>388</sup> January 7, 1997 Supp. Police Report Missing Persons of J. Wheat at p. 1.

<sup>389</sup> Trial 2 Testimony of D. Van Treese, Vol. 4, at p. 79:6-9.

<sup>390</sup> Case Record, Office of the District Attorney, Oklahoma County, Police Incident No. 97-002261, at p. 7 (January 21, 1997).

<sup>391</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at p. 169:21-22. “At a point in time and I can’t tell you the date or the year even, Barry and I struck a deal where I had one percent of the motel so that I could help him out.” *Id.* Ms. Van Treese disputed this ownership claim. Trial 2 Testimony, D. Van Treese, Vol. 4 at p. 144:6-10.

“he felt that Mr. Glossip was probably pocketing a couple hundred a week extra”<sup>392</sup> and that he was meeting Mr. Van Treese at the motel on January 6<sup>393</sup> ostensibly to fire Glossip for stealing. He testified to various statements Glossip made to him and he was involved with the search for Mr. Van Treese, and discovered Mr. Van Treese’s body in room 102,<sup>394</sup> among other things. While there are snippets of statements from Everhart in various police reports before the body was found, there is no record of an interview of Everhart post-body being located. The January 1997 District Attorney’s Case Record lists specific statements made by Everhart indicating that an interview by either police or the prosecution did indeed take place, but no record or notes documenting such interview was ever produced.<sup>395</sup>

<p>#3- Witness advised that he owned 102 7/8 interest in the Best Budget motel. Further, that Barry Van Treese and him had worked around each other for several years. Witness advised after being informed about Barry Van Treese's disappearance he came to the motel and told the Δ to search all the rooms to find the victim. Witness also can testify that when he asked Rich Glossip for the key to #102, Glossip threw him outside key to room #253 saying room #102 had not been cleaned from the previous night.</p>	<p>REMARKS</p>
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- **Marty Bender** (co-manager of the Tulsa motel): She may have been the last person to speak with Mr. Van Treese alive per the statement from her husband, William Bender. She was also at the Tulsa motel when Mr. Van Treese visited, and could have provided additional information as to what occurred. We spoke with Ms. Bender as part of our investigation, and while she corroborated some of what her

<sup>392</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at p. 172:18-19.

<sup>393</sup> *Id.* at 174:19, 175:10-20.

<sup>394</sup> January 7, 1997 Police Report of T. Brown; January 7, 1997 Crime Scene Entry Log listing Cliff Everhart as “assisted getting in room.”

<sup>395</sup> Case Record, Office of the District Attorney, Oklahoma County, Police Incident No. 97-002261, at p. 6 (January 21, 1997).

husband said, her statements were often confusing and contradictory given the passage of time.

- **Derrick Van Treese**: Mr. Van Treese called his residence on the evening of January 6, 1997 (the night of the murder) and spoke with his 24-year-old son, Derrick.<sup>396</sup> Derrick Van Treese would have been able to provide relevant information as to his father's demeanor, mood, and tone when he was at the Best Budget Inn Oklahoma City motel.
- **Cpl. Harold Wells**: Bender first contacted Tulsa Police Department Cpl. Harold Wells. Wells then contacted the Oklahoma Police Department. There is no report from Wells about what Bender told him and nobody asked Wells what Bender said to him in order to evaluate if it was consistent with what Bender told Detective Bemo.<sup>397</sup>
- **Kenneth Van Treese** (Mr. Van Treese's brother): Kenneth Van Treese testified at trial for the State. He took over running the motel after Mr. Van Treese was murdered. He provided information regarding the condition of the motel, and the finances of the motel. He testified that the purported shortages Ms. Van Treese talked about would not have bothered "[a]nybody that's in business" and that having concerns about the shortages would be like "crying over spilled milk."<sup>398</sup> It appears he had in his possession evidence that the police released back to the family after the murder. Mr. Van Treese also spoke with William Bender after the murder and the police should have questioned him about that interaction.
- **Dudley Bowdon** (Van Treese's CPA): Mr. Bowdon could have provided information regarding Mr. Van Treese's business practices, including his precarious financial situation before and at the time of the murder. We interviewed Mr. Bowden and he provided a great deal of useful information, including information that cuts

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<sup>396</sup> State's Exhibit 80; see Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 80:20-81:1. This would be critical information to corroborate or disprove Ms. Van Treese and William Bender's claims that Mr. Van Treese was angry with Glossip and had confronted him about embezzlement or other motel issues.

<sup>397</sup> March 4, 1997 Suppl. Police Report of B. Bemo (detailing W. Bender Interview) at p. 1.

<sup>398</sup> Trial 2 Testimony of K. Van Treese, Vol. 11 at pp. 145:20-23; 146:5-10.

against the prosecution's motive theory at trial. If the police had interviewed Ms. Van Treese, they could have learned about Mr. Bowdon's identity. We learned about him because he submitted a letter to Ms. Van Treese in 1998 refuting Everhart's claim to have owned an interest in the motel.

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(870) 932-8282  
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May 26, 1998

Mrs. Donna VanTreese  
8 Ketch Creek Place  
Lawton, Oklahoma 73502

- **Wes Taylor** (Sneed's half-brother): Taylor could have provided information regarding Sneed's character, including his drug use and prior criminal background. He had his own criminal problems, and purportedly at one point came up with an idea to rob the motel.
- **Jamie Spann**: According to the motel daily report from January 1-8, Jamie Spann stayed with Sneed in his room around the time of the murder (1/2/97 and 1/4/97).<sup>399</sup> Mr. Spann provided an affidavit to Glossip's attorneys years later and provided information regarding Sneed that would have been relevant to the homicide investigation as it contradicts Sneed's portrayal as a "puppet." It does not appear he was asked about his visit with Sneed around the time of the murder.

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<sup>399</sup> Best Budget Inn Daily Reports Oklahoma City for January 2, and 4, 1997.

- **Kim Hooper and Gary Portnall**: On January 9, 1997, the police received information from someone named Kirby Evans that Hooper and Portnall may have been at the motel, and that Portnall may have been there the night of the murder, but the police did not follow up to try and interview them.<sup>400</sup>

KIRBY EVANS STATED THAT KIM HOOPER TOLD HIM THAT SHE AND PORTNALL HAD GOTTEN INTO A DOMESTIC ON THE DAY OF THE HOMICIDE AT THE BEST BUDGET INN. EVANS FURTHER ADVISED KIM HOOPER TOLD HIM THAT PORTNALL RETURNED THE NEXT DAY AND TOLD HER ABOUT THE HOMICIDE. KIM HOOPER TOLD EVANS THAT HE (PORTNALL) TOLD HER THAT HE LEFT DURING THE DOMESTIC AND EVENTUALLY WENT TO AND STAYED AT THE BEST BUDGET INN, IN THE ROOM NEXT TO WHERE THE HOMICIDE OCCURRED. SHE TOLD EVANS THAT SHE WAS IN THE BATHTUB WHEN PORTNALL GOT HOME. SHE TOLD EVANS THAT WHILE SHE WAS IN THE BATHTUB, SHE OVERHEARD PORTNALL TALKING ON THE TELEPHONE TO SOMEBODY AND HEARD HIM SAY SOMETHING ABOUT THEM FINALLY FINDING THE BODY.

- **Lois Gann** (Sneed's purported girlfriend): She had been calling Sneed prior to the murder.<sup>401</sup> Sneed may have discussed the murder with her. She also could have been questioned as to whether Sneed had ever told her that Glossip had been trying for months to get Sneed to kill Mr. Van Treese.
- **David McWaters**: Was at the motel after the murder, and purportedly one of McWaters' friends or relatives purchased items from Glossip.<sup>402</sup> This was told to the police by Wood.<sup>403</sup> We interviewed McWaters and he denies this, although he should have been interviewed by the police right after the murder.

D-Anna said that she and Rich were planning on leaving the motel, not leaving town, but leaving the motel. In preparation, they sold their TV, entertainment center, and futon, to one of David McWaters' friends.

<sup>400</sup> January 10, 1997 Supp. Police Report by V. Allen (detailing Kirby Evans Call).

<sup>401</sup> A. Cusick Interview of L. Gann at p. 1 (June 8, 2016).

<sup>402</sup> January 16, Police 1997 Report of B. Cook at p. 1.

<sup>403</sup> *Id.*

- **Paul Demonski**: Appears to have stayed in in room 105 from January 6-8, 1997.<sup>404</sup> He might have been an eye witness to the events the night of the murder and might also have had relevant information of what occurred before and afterwards.
- **Kathryn Kay Timmons** (Jackie Williams' daughter): Jackie Williams was the motel's maid, and her daughter apparently was outside at around the time of the murder and heard breaking glass from room 102. Although her mother was interviewed, Timmons was never talked to by the police. It appears she may have provided information to the District Attorney's Office, but this was not until before the second trial.
- **All of the employees/guests/residents of the Oklahoma City motel that could be found**: The police should have attempted to speak with all of the guests that were staying at the Best Budget Inn motel the night of the murder and days leading up to and after the murder to see if they had any additional information regarding the homicide. Indeed, years later, Glossip's attorneys obtained an affidavit from Tricia Eckhart, a resident and employee of the motel, who stated that, before the Christmas holiday, she overheard Sneed talking to someone over the phone and saying that the motel owner "was going to get what he deserved."<sup>405</sup>
- **Workers at the nearby strip club, including but not limited to Stephanie Garcia**: There was a strip club right next to the Oklahoma City Best Budget Inn, and workers from the strip club frequented the motel. The police should have canvassed the strip club workers for any information regarding the murder, or information regarding Sneed and others who might have been involved. Years later, Glossip's attorneys spoke with Stephanie Garcia who provided substantial information regarding the Best Budget Inn, as well as information regarding Sneed that directly contradicts the picture painted of Sneed at trial of a subservient "puppet." Garcia described Sneed as a heavy drug user who was "cruel and violent" and who would manipulate the girls at the club. She also stated that

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<sup>404</sup> State's Exhibit 77, Best Budget Inn Daily Report Oklahoma City for January 6, 1997.

<sup>405</sup> Affidavit of Tricia Eckhart, p. 2, paragraph 13 (November 24, 2019).



police attempted to prevent the girls at the strip club from providing information related to the murder.<sup>406</sup>

- **Mark Brassfield** (Sneed’s employer before and after the murder): After the murder, Sneed went back to work for the roofing company he was with when he first came to Oklahoma City. Mark Brassfield was one of the owners. Had police interviewed Mark Brassfield, they would have known that Sneed stated that he did not want to get “others” in trouble for the murder.<sup>407</sup> Mr. Brassfield believed that the “others” who were involved in the murder were Wesley Taylor, David Jackson, and Kimberly Jackson.<sup>408</sup> These would have been potential suspects that the police could have spoken to.
- **Robert Brassfield, David Jackson or Other Roofing Company Personnel:** Robert Brassfield also owned the roofing company, David Jackson worked there, and Sneed stayed with Jackson afterwards. While the police made contact with these two individuals, they did not interview them in connection with the murder to determine whether Sneed told them anything about what happened, or what Sneed was doing during the week after the murder before his arrest. They did not ask any questions about Sneed’s character generally, including his drug use or his violent tendencies.<sup>409</sup> They did not talk to anyone else associated with the roofing company who may have been in contact with Sneed after the murder.
- **Employees of Tulsa Best Budget Inn:** The police should have attempted to interview employees of Mr. Van Treese’s other motel in Tulsa for information regarding Sneed and Glossip, and whether they had ever heard anything about a plan to murder Mr. Van Treese. In 2019, Glossip’s attorneys obtained an affidavit from Margaret Humphrey a former employee/resident of the Tulsa Best Budget Inn. Ms. Humphrey stated that Sneed visited the motel at one time with Mr. Van Treese to do some work, and she overheard Sneed say that Mr. Van Treese “was

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<sup>406</sup> Affidavit of Stephanie Garcia (June 19, 2017). We also interviewed Ms. Garcia as part of our investigation and she confirms much of what she stated in her affidavit.

<sup>407</sup> April 2022 Reed Smith Interview of Mark Brassfield.

<sup>408</sup> *Id.* at 3.

<sup>409</sup> January 17, 1997 Suppl. Police Report of V. Krieth at p. 1.

going to get what was coming to him” and that he was “going to rob and kill Barry when Barry came to the Oklahoma City Best Budget Inn on payday,” among other things.<sup>410</sup>

**X. Material Evidence Countering That Sneed Split The Money With Glossip And That Glossip Had Motive For Murder Was Not Presented To The Jury**

**A. The Evidence Shows Sneed Did Not Split Four Thousand Dollars With Glossip And That Glossip’s Money Did Not Come From Mr. Van Treese**

To corroborate Sneed’s story that Glossip hired him to murder Mr. Van Treese and that he and Glossip split the money Sneed took from Mr. Van Treese’s car, the State relied heavily on the fact that Glossip had \$1,757 in cash when he was arrested outside a lawyer’s office on January 9, 1997. There was no physical evidence linking this money to the murder, such as blood from either Mr. Van Treese or Sneed, serial numbers matching the money from Sneed, or even matching denominations. Instead, the State argued that, because Glossip could not account for much of this money, it had to be half of the money taken from Mr. Van Treese.

In closing arguments, for example, the State said: “That’s his half of almost \$4,000 that was taken at the pain of the life of Barry Van Treese.”<sup>411</sup> The State, then, doubled down on its theory that there was \$4,000 that Sneed and Glossip divided in half, and that Glossip’s \$1,757 came from his half of that \$4,000.<sup>412</sup>

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<sup>410</sup> Affidavit of Margaret Humphrey (November 24, 2019).

<sup>411</sup> Trial 2 State’s Closing Arguments, Vol. 15 at p. 94:3-5.

<sup>412</sup> Trial 2 State’s Closing Arguments, Vol. 15 at pp. 169:17-170:4.

Now, Justin Sneed has \$1,680 on him. Now, that's not all of Barry Van Treese's money. So you've got to believe one of two things. You've got to believe either Justin Sneed, while he's hiding under a bridge with his skateboard and working for the Brassfields in taking, you know, his days -- spending his days and nights with them, you've got to believe that he spent the other \$2,000 or you've got to believe that Justin Sneed only had half the money. And that's what he tells you and, poof, that's what he's got.

So if that's true, Justin Sneed only has half the money, where is the money? Where is the rest of Barry Van Treese's money? If that \$1,757 isn't it? There's no explanation. There's no reasonable doubt. That money is Barry Van Treese's money.

The Court of Criminal Appeals also considered Glossip's money to be of critical importance in corroborating Sneed's story, stating, "The most compelling corroborative evidence, in a light most favorable to the State, is the discovery of money in Glossip's possession."<sup>413</sup>

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<sup>413</sup> See *Glossip v. State*, 2007 OK CR 12; 157 P. 3d 143, 152 (2007). The Court also stated that there "was no evidence that Sneed had independent knowledge of the money under the seat of the car." *Id.* However, we have identified substantial evidence that it was common knowledge that Mr. Van Treese carried large amounts of money, including in his car, so Sneed did not need Glossip to tell him that Mr. Van Treese carried cash. See Section XVIII.A.4.b. In any event, the money under the seat would not have been hard for Sneed to locate, particularly since he drove the car into a curb when he moved the car to the Credit Union parking lot and this would likely have caused the envelope with cash to fly out from under the seat. Moreover, photographs of the interior of the car suggest the car might have been ransacked and if that was the case the money would have been located quite easily.

Sneed testified during Trial 2 that he and Glossip split evenly the \$4,000 Sneed stole from under the seat in Barry Van Treese's car:<sup>414</sup>

Q. Do you remember how much was there?

A. It seems like right around 4,000.

Q. Okay. Did you split it evenly?

A. Yes, ma'am.

The State's position was that the money under the seat that Sneed took after killing Mr. Van Treese was the motel receipts that Mr. Van Treese picked up on January 6, 1997 before he went to Tulsa. What this means is that knowing how much money Mr. Van Treese picked up from Oklahoma City and still had under the seat of his car when he returned is critical. That number must be around \$4,000 for the State's theory to hold up. If Sneed netted around \$2,000, as he testified, and also split the money evenly with Glossip, then the State needed \$4,000 for its case to fit. If there was significantly less than \$4,000, Sneed's story doesn't hold up and it is more likely that Sneed never split money with Glossip as he testified, and this would undermine Sneed's entire story.

Our investigation demonstrates that Mr. Van Treese must have picked up less than \$3,000 and closer to \$2,800 in receipts on January 6, 1997. Thus, Sneed could not have split the money with Glossip and still have netted around \$2,000, as he claimed. The only conclusion from this is that Sneed did not split money with Glossip and that this most likely was a solitary robbery committed by Sneed who pocketed whatever money he took from under the seat in Mr. Van Treese's car.

Since Sneed was gone for an entire week after the murder and nobody questioned him or others regarding his whereabouts during that time, it is entirely plausible that he spent some

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<sup>414</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 129:5-8, 19-21.

of the money that he took from Mr. Van Treese. He was a heavy drug user (he admitted to using methamphetamine in the days leading up to the murder)<sup>415</sup> and it is at least plausible, if not likely, that after committing a gruesome murder, he purchased and used drugs. The police did not ask him whether he used drugs during the week after the murder and we have seen no record that he was drug tested after his arrest. Moreover, Sneed's money was located in a drawer in a shared apartment living room where he stayed after the murder when he went back to work with the roofing company.<sup>416</sup> It is also plausible that some money was taken by others who had access to that drawer. The police did nothing to investigate this. For example, we saw no evidence that the police asked Sneed why only \$1,680 was found in the drawer, even though he stated that he obtained close to \$2,000.

In any event, based on the complete set of facts, our conclusion that Mr. Van Treese picked up less than \$3,000 is supported by our determination that Mr. Van Treese would only have picked up cash receipts for, at most, the first six days of January 1996. This is because Mr. Van Treese must have already picked up all the receipts from December 1996. Ms. Van Treese testified that the family stopped at the Oklahoma City motel at the end of December on the way to a 4-day ski trip, and returned on January 5, 1997.<sup>417</sup> This would place the family at the motel on December 31, 1996. This means Mr. Van Treese must have picked up the remaining December 1996 receipts before leaving for the ski trip. Indeed, Ms. Van Treese testified about creating her year-end report on January 6, 1997 after coming back from vacation and before Mr. Van Treese went to Oklahoma City that day.<sup>418</sup> Ms. Van Treese would have needed all of the information from December 1996 to prepare this report, including the daily reports that Mr. Van Treese collected from the motel. As Ms. Van Treese testified, her husband's procedure was to reconcile the motel's daily reports against the daily logs that she maintained.<sup>419</sup>

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<sup>415</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 111:21-25; January 24, 2000 Interview with J. Sneed by L. Burch and M. Haire.

<sup>416</sup> January 14, 1997 Police Report of B. Cook.

<sup>417</sup> Trial 2 Testimony of D. Van Treese, Vol. 5 at pp. 23:13-14, 58:6-15.

<sup>418</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 22:2-6, 17-23:4; Trial 1 Testimony of D. Van Treese, Vol. 3 at pp. 46:3-14.

<sup>419</sup> See Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 130:10-25.

Thus, when Mr. Van Treese arrived on January 6, 1997, the only receipts to pick up were from those first days of 1997. Based on the daily reports for those days, the cash receipts for this period totaled at most only **\$2,848.45**.<sup>420</sup>

EST BUDGET INN/301 S. Council, Oklahoma City  
DAILY REPORT

115699  
SB  
DATE 1-6-97  
#RKS 30 ADM 2013  
%OCC

H	Rm#	WBK#	DATE IN	NAME	PD THRU	RATE	TAX	TOTAL	STATUS
	101	WB							
	102	WB							
*28.44	103	2	1/6	Perithe, John	1/6	2595	269	2864	visa 115704
	104	2							
2643	105	2	1-4	Donnell Paul	1-6	2395	248	2643	visa 115711
2643	106	2	8-22	Burster Michael	1-1	2395	248	2643	visa 115712
2864	107	2	1-6	Lowell Carl	1-6	2595	269	2864	visa 115713
	108	2							
	109	2							
	110	2							
2864	111	2	1/6	Middle, Lawrence	1/6	2595	269	2864	visa 115714
	112	2							
	114	1							
	115	1							
	116	1							
Comp	117	1	7-11	Sauler Justin	1-6				comp comp 115715
	118	1							

<sup>420</sup> Daily Reports for January 1-6, 1997. The daily reports for January 1-6, 1997 include deposits of 3100.69 - 252.24 credit card payments (CC) = 2848.45. This does not even account for any cash paid out for supplies or other expenses, which happened frequently. This is because only the front side of the daily reports for January 1-5, 1997 were obtained by defense counsel in the first trial. By the second trial, the prosecution and Donna Van Treese explained that the records had been destroyed. Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 115:20-116:9; Trial 2 Statement of C. Smothermon, Vol. 5 at p. 35:19-21. The deposit and receipt books that were destroyed by the State would have been critical to the defense to counter the State's embezzlement theory.

RCI 000079 AMERICAN BEST BUDGET INN  
301 S. Council, Oklahoma City

DAILY SALES REPORT

<table border="0"> <tr><td>CASH PAID</td><td>+ 517.65</td></tr> <tr><td>OT INCOME</td><td>+ —</td></tr> <tr><td>ACCT. REC.</td><td>+ —</td></tr> <tr><td>CASH PD OUT</td><td>- 22.06</td></tr> <tr><td>CREDIT CARD</td><td>- 83.71</td></tr> <tr><td>TOTAL NEED</td><td>= 411.88</td></tr> <tr><td>TOTAL HAVE</td><td>= 410.00</td></tr> <tr><td></td><td>- 1.88</td></tr> <tr><td>DEPOSIT =</td><td>410.00</td></tr> </table>	CASH PAID	+ 517.65	OT INCOME	+ —	ACCT. REC.	+ —	CASH PD OUT	- 22.06	CREDIT CARD	- 83.71	TOTAL NEED	= 411.88	TOTAL HAVE	= 410.00		- 1.88	DEPOSIT =	410.00	<table border="0"> <tr><td>DAILY LM RENT+TAX</td><td>=</td></tr> <tr><td>PLUS OTHER INCOME</td><td>+</td></tr> <tr><td>SUBTOTAL</td><td>=</td></tr> <tr><td>LESS CASH PD OUT</td><td>-</td></tr> <tr><td>NET BUSINESS VOLUME</td><td>=</td></tr> <tr><td>MTD NET BUS. VOLUME</td><td>_____</td></tr> <tr><td>MTD ROOM RENT+TAX</td><td>_____</td></tr> <tr><td>MTD CASH PD OUT</td><td>_____</td></tr> <tr><td>MTD OTHER INCOME</td><td>_____</td></tr> <tr><td>Rooms</td><td>20</td></tr> <tr><td>Deposit</td><td>410.00</td></tr> <tr><td>AOR</td><td>26.93</td></tr> <tr><td>CPO</td><td>22.06</td></tr> <tr><td>CC</td><td>83.71</td></tr> <tr><td>CLIFF SALES</td><td>- 1.88</td></tr> </table>	DAILY LM RENT+TAX	=	PLUS OTHER INCOME	+	SUBTOTAL	=	LESS CASH PD OUT	-	NET BUSINESS VOLUME	=	MTD NET BUS. VOLUME	_____	MTD ROOM RENT+TAX	_____	MTD CASH PD OUT	_____	MTD OTHER INCOME	_____	Rooms	20	Deposit	410.00	AOR	26.93	CPO	22.06	CC	83.71	CLIFF SALES	- 1.88
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This amount also does not account for the fact that, as discussed in more detail below, Mr. Van Treese did not typically pick up dollar bills or change, so the amount actually picked up by Mr. Van Treese was likely less than what we have calculated.

Our conclusion that Mr. Van Treese had no more than \$2,848 from the Oklahoma City motel deposits is consistent with contemporaneous witness statements shortly after the murder. We find these statements to be most reliable, as they were given before the State had a chance to shape the evidence needed to make its case. For example, Hooper, the front desk clerk, told Detective Cook on January 9, 1997 that “after Barry’s body was discovered, she was asked by Cliff [Everhart] to run a tally on how much money Barry had been given. She said that if the dailies were correct, she figured \$2877.”<sup>421</sup>

<sup>421</sup> January 9, 1997 Police Report of B. Cook.

spend the night and survey the room the next day for improvements..

Billye said that before she left for the day, Barry had Rich bring him the money. She said that later after Barry's body was discovered, she was asked by Cliff to run a tally on how much money Barry had been given. She said that if the dailies were correct, she figured \$2877.

This figure is close to the \$2,848.45 amount that we calculated from the daily reports. Hooper would have had access to the daily reports in order to make this calculation. Hooper's statement is corroborated by a statement that Cliff Everhart made to Officer Gibbons on January 7, 1997, when Mr. Van Treese was still missing, that "Barry Van Treese was carrying approximately \$2500.00 in cash from the business."<sup>422</sup> Even Glossip informed Officer Tim Brown on January 7, 1997 that Mr. Van Treese had picked up "about \$3,000 dollars in cash."<sup>423</sup>

Finally, none of this accounts for the fact that Mr. Van Treese may have spent some of the money he picked up between the time he left Oklahoma City at around 8:00 p.m. to go to Tulsa and the time he returned to Oklahoma City at around 2:00 a.m. We know, for example, from the Pike Pass records that Mr. Van Treese arrived at the Tulsa West exit at 9:44 p.m. and, therefore, should have arrived at the Tulsa Best Budget Inn by no later than 10:00 or 10:15 p.m.<sup>424</sup>

2/13	1:42pm				Account balance
3/24	3:40pm				Lock Box Prepayment
1/06	5:12pm	264681	HCP	HCP	To11
1/06	5:31pm	264681	HNP	HNP	To11
1/06	9:44pm	264681	TTX	TOE	To11
1/07	1:36am	264681	TOX	TTE	To11
1/14	12:47am	264681	HNP	HNP	To11

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<sup>422</sup> January 7, 1997 Police Report of J. Gibbons.

<sup>423</sup> January 7, 1997 Police Report of T. Brown.

<sup>424</sup> State's Exhibit 50, January 7, 1997 Oklahoma Turnpike Authority Pikepass Statement.



However, William Bender stated that Mr. Van Treese did not arrive until around 11:30 p.m.<sup>425</sup> All of this suggests that Mr. Van Treese was taking care of other business in Tulsa before he went to his Tulsa motel, and this could have involved spending some of the money. We know from Mr. Van Treese's accountant, Dudley Bowdon, that Mr. Van Treese used the money under his car seat to make payments, as Mr. Bowdon recounted a time in September 1996 when Mr. Van Treese paid Bowdon \$800 in cash from the money in an envelope under the front seat of his car.<sup>426</sup> It seems likely that Mr. Van Treese would have spent some money during this unaccounted for period of time and could have used the cash from the envelope under his seat as he did when he paid Mr. Bowdon. In that case, the amount of money he returned to Oklahoma City with before he was killed by Sneed would have been less than the approximately \$2,800 he picked up earlier in the evening. This information was not presented to the jury.

#### **B. The Evidence Countering The Motive Theories Was Not Presented To The Jury**

The State asserted various motive theories to convince the jury that Glossip had reason to want Sneed to kill Mr. Van Treese. Without offering a motive, there would be no explanation why Glossip would want Mr. Van Treese killed, and Sneed's statements implicating Glossip in the killing would make no sense. Our investigation demonstrates there was no factual or evidentiary basis for the State's motive theories.

During his police interrogation, Sneed stated that Glossip believed, by killing Mr. Van Treese, he would be able to convince Ms. Van Treese to have Glossip take over the Oklahoma City Best Budget Inn. At trial, Sneed added that Glossip also believed he could convince Ms. Van Treese to let him run the Tulsa Best Budget Inn too.<sup>427</sup> In an interview, Detective Bemo called this "ridiculous," stating: "I don't understand this idea where he thought he was just gonna take over that motel. You know? Cuz Barry Van Treese, his family was very strong, you know, I mean they were, they were not about to let him take over that motel."<sup>428</sup> Sneed also testified that

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<sup>425</sup> January 8, 1997 Police Report of B. Bemo.

<sup>426</sup> April 2022 Reed Smith Interview of Van Treese's Personal CPA Dudley Bowdon.

<sup>427</sup> January 14, 1997 Police Interrogation of J. Sneed, at p. 46:6-12; Trial 2 Testimony of J. Sneed, Vol. 12 at p. 89:5-10; 90:21-24.

<sup>428</sup> Radical Media Interview with B. Bemo, at timestamp 12:01:56:18 (July 26, 2016).

Glossip told him he would be fired if Mr. Van Treese saw the condition of the rooms that were supposed to have been remodeled, and that Sneed would also be out on the street because of this.<sup>429</sup>

The State must have understood that the idea that Glossip could have Mr. Van Treese killed and then convince Ms. Van Treese to let him take over both motels was ridiculous, and also conflicted with Sneed's other story, that Glossip thought he would be fired for not remodeling certain rooms. Accordingly, the State dropped the "take over the motels theory" and pursued the remodeling theory, along with a new theory; that Glossip was afraid he would be fired for stealing money from the motel. At trial, the primary motive theory became that Glossip learned on January 6, 1997 that Mr. Van Treese was about to fire him for embezzling. The secondary motive theory was that Glossip believed he would be fired because the hotel was in poor condition and Mr. Van Treese would discover this upon returning from Tulsa. Each of these alleged motives featured prominently in the prosecution's case against Glossip, although there was scant evidence to support either. This excerpt from the prosecution's closing argument to the jury covers both:<sup>430</sup>

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<sup>429</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 97:7-20.

<sup>430</sup> Trial 2 State's Closing Arguments, Vol. 15 at p. 153:8-18.

8                   What gets you killed is you go to the motel  
9                   January 6th and say, "Hey, I'm here. I'm going to go to  
10                  Tulsa and make the payroll and when I get back I want you to  
11                  tell me where this missing money is, I want you to find  
12                  these missing registration cards and once we get this front  
13                  office in order we're going to start remodeling the rooms."  
14                  Uh-O. Uh-O. Because Richard Glossip knows what the  
15                  condition of those rooms are in, and so does D-Anna Wood and  
16                  so does Justin Sneed and so does Billye Hooper. They all  
17                  tell you. They know the condition of the rooms are a  
18                  problem.

Our investigation has revealed that these motive theories are not supported, and the jury was not presented with the information to properly assess them. If such information had been presented, it seems likely the jury would have rejected these theories and this pillar of the State's case would have fallen away.

**1. The Argument That Glossip Was Stealing Money From The Best Budget Inn And Was About To Be Fired Questionable At Best And This Was Never Explained To The Jury<sup>431</sup>**

There are two aspects to this theory; both must be true for it to make sense. First, it must be true that Glossip was stealing and Mr. Van Treese was going to fire him around the time of the murder. Second, Glossip must have believed he was about to be fired. Our investigation shows there is little, if any, support for either being true.

As set forth below, Ms. Van Treese testified that, after returning from vacation on January 5, 1996, they arrived home and calculated year-end financial results, discovering a yearly shortage of \$6,101.92, and Mr. Van Treese headed to Oklahoma City the next day to confront Glossip. Everhart also testified that he was meeting Mr. Van Treese on the January 6 to confront

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<sup>431</sup> Due to the State's motive theory asserting embezzlement and disrepair of the motel by Glossip, it is necessary to provide complete context regarding Mr. Van Treese's business affairs and financial dealings.

Gossip, but when he arrived, he drove through the parking lot and did not see Mr. Van Treese's car, so he simply went home. The only evidence that Gossip knew he may be fired came from Bender. Bender and his wife co-managed the Tulsa Best Budget Inn. He had no firsthand knowledge regarding the Oklahoma City motel, but was allowed to testify to hearsay statements purportedly made to him by Mr. Van Treese.

There are several problems with the State's theory that Gossip killed Mr. Van Treese to avoid being fired for stealing. These problems are summarized here and discussed more fully below:

- There is no evidence Ms. Van Treese ever told police that Gossip was going to be fired for stealing during the time her husband was missing on January 7 or after he was discovered in room 102. As far as we can determine, Ms. Van Treese merely told the police that her husband left in the morning on the 6th, and she expected him to come home.<sup>432</sup>
- Everhart testified that he planned to meet Mr. Van Treese at the motel on January 6, 1997 to confront Gossip. There is no record that Everhart told this to the police. If Everhart's story was true, he would have told the police, given his background as a former police officer and investigator, and this should be documented in a police report. There are also several other credibility problems regarding Everhart and his testimony, discussed in Section XIII. Evidence of Cliff Everhart's Lack of Credibility and Related Criminal Troubles The Jury Did Not Hear.
- Bender is the only person who told police that Mr. Van Treese was planning to fire Gossip for stealing, and the only person who links Gossip with any knowledge of this. But his testimony is unreliable as he had no personal knowledge, and only recounted unreliable hearsay statements purportedly from Mr. Van Treese.

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<sup>432</sup> Billye Hooper also testified that she expected that Gossip was going to be fired on January 6, but she was interviewed by the police on January 7, 1997 and never said anything about this.

- Documents needed to definitively verify the shortage calculations were never presented at trial, and were destroyed between the end of the first trial and the second trial.
- The method for calculating the shortage described by Ms. Van Treese means the shortage amount is overstated.
- Ms. Van Treese’s \$6,101.92 year-end shortage calculation does not account for adjustments written down on the monthly reports.
- The daily Average Daily Rate (“ADR”) amounts used to calculate business volume were rounded up or down.
- The method for calculating the shortage understates the actual cash received each day. This is because Mr. Van Treese did not pick up all of the daily receipts (for example, he did not pick up dollar bills and change).
- Ms. Van Treese’s shortage calculations lack sufficient trustworthiness. The Oklahoma Best Budget Inn dealt mostly in cash; at least 74% of the business receipts were cash, and Mr. Van Treese kept money out of banks to avoid the IRS. More than \$23,000 in cash was found in Mr. Van Treese’s car.
- The total yearly shortage was only 2% of the entire business volume for the year. Even Mr. Van Treese’s brother said that this level of shortage would not have bothered Mr. Van Treese, and there was an even greater percentage shortage calculated for the Tulsa location.
- Even though Mr. Van Treese knew about “shortages” throughout 1996 (76% of the total alleged shortage already existed by June), they did not fire Glossip, and even though Glossip was supposedly set to be fired on January 6 , Mr. Van Treese paid Glossip and left Glossip in charge to go to Tulsa. Even after the murder, Glossip was paid for his last days working at the motel.

**a. There Is No Evidence Ms. Van Treese Mentioned To The Police That Her Husband Was Going To Fire Glossip For Embezzling**

The first known mention from Ms. Van Treese that her husband planned to fire Glossip for stealing was when she testified in the first trial. Even the “Summary of Witness Testimony”

filed by the State before that trial notes only that Ms. Van Treese would testify to: “[M]otel records and victim impact as well as other information contained in the police reports previously furnished.”<sup>433</sup> There is no suggestion in the record that Ms. Van Treese ever told police about Glossip stealing money and that he was going to be confronted and fired. While we have never seen a police interview report for Ms. Van Treese, we would assume the police spoke to her. If she had made some comment suggesting a possible motive, we would have expected to see that noted in some police report. Certainly, Ms. Van Treese would have told the police after her husband was found in room 102 that they should focus on Glossip, as her husband was heading to Oklahoma City to confront Glossip and possibly fire him. But no such report has been identified.<sup>434</sup>

The lack of any reporting of this from Ms. Van Treese to the police casts suspicion on the State’s motive theory. We have seen a short notation in the prosecution’s file indicating they may have spoken to Ms. Van Treese at some point after Glossip was already charged with murder.<sup>435</sup> This notation indicates Ms. Van Treese could have commented about “management” stealing, but says nothing regarding a plan to fire Glossip or who in “management” was involved. Perhaps these were just prosecution notes devising the case strategy, rather than notes of a discussion with Ms. Van Treese—it is unclear. But, in any event, we would expect something more explicit about a plan to fire Glossip if there was such a plan.<sup>436</sup>

Finally, Ms. Van Treese’s actions on January 7, 1997 are inconsistent with a plan to fire Glossip the day before. Ms. Van Treese testified that she attempted to contact her husband by calling the Oklahoma City Best Budget Inn before lunch time on January 7, 1997 as she “had a message [she] needed to get with Barry.” Ms. Van Treese testified that she spoke to Billye

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<sup>433</sup> September 16, 1997 State Summary of Witness Testimony at p. 5.

<sup>434</sup> There is no record we have seen or located indicating that Ms. Van Treese made such statements to the police. We have requested further records from the district attorney’s office and they have declined to provide those documents.

<sup>435</sup> January 21, 1997 Oklahoma County District Attorney Case Record, Incident No. 97-002261 at p. 8.

<sup>436</sup> This notation also suggests there should be more detailed notes regarding the prosecution’s interview with Ms. Van Treese, but it appears these notes were withheld. According to the prosecution’s notes, Ms. Van Treese used words nearly identical to what Bender said to Detective Bemo; that management was “stealing them blind.” This also suggests that, early in the process, witnesses started to conform their versions of events to what other witnesses were saying.

Hooper, the day clerk, but was not concerned after that conversation. There is no indication she asked Hooper if Glossip had been fired.<sup>437</sup> Neither Ms. Van Treese nor Hooper indicated that this subject was discussed. We, at least, would have expected Ms. Van Treese to have asked Hooper whether Glossip was still at the motel or who was running the motel. This is particularly so, since Hooper also testified that when she left on January 6 she did not expect that Glossip would still be working at the motel in the morning.<sup>438</sup> When Detective Cook interviewed Hooper on January 9, 1997, Hooper said nothing about expecting Glossip to be fired.<sup>439</sup>

Ms. Van Treese also testified about speaking with Glossip later on January 7, during the time when Mr. Van Treese was still missing, but she said nothing about being surprised about Glossip still at work. If Glossip was to have been fired, we would have expected Ms. Van Treese to have expressed some surprise that he was still there. Instead, Ms. Van Treese said that she asked Glossip to look for her husband, testifying that she said to Glossip: “You are the manager. I need for you to go and check all the rooms.”<sup>440</sup> All of this is inconsistent with the State’s story that Mr. Van Treese was going to Oklahoma City on January 6 to fire Glossip. None of this was explained to the jury.

**b. There Is No Evidence Everhart Ever Told Police He Was Supposed To Meet Mr. Van Treese To Fire Glossip, Even After Finding Mr. Van Treese Murdered, So His Testimony On This Point Is Not Credible**

Everhart testified that, on January 6, 1997, he went to the Oklahoma City to meet Mr. Van Treese at the motel to confront Glossip due to shortages on the motel books through the end of the year 1996. Everhart also testified that he previously told Van Treese that Glossip “was probably pocketing a couple hundred a week extra” from the motel cash receipts during the last two or three months of 1996.<sup>441</sup> Everhart was not asked to explain his opinion and Ms. Van Treese did not testify to learning anything from Everhart about Glossip stealing. Ms. Van Treese said this was something they uncovered after they came back from vacation on January 5, 1997.

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<sup>437</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 95:12-96:22.

<sup>438</sup> Trial 2 Testimony of B. Hooper, Vol. 8 at pp. 34:14-35:3.

<sup>439</sup> January 9, 1997 Police Report of B. Cook.

<sup>440</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 98:23-101:19.

<sup>441</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at pp. 169:17-170:13, 172:16-177:17, 201:8-23.

Everhart stated in the first trial that he went to the motel on January 6 between 7:30 and 8:00 in the evening, drove through the parking lot, but did not see Mr. Van Treese's car, so he left.<sup>442</sup> In the second trial, he testified that he was supposed to be there around 6:00 or 7:00 p.m., but that 7:30 or 8:00 at night was also possible.<sup>443</sup> He also testified that he and Mr. Van Treese did not have a set time for the confrontation with Glossip, but it would be in the early evening when Everhart got off work.<sup>444</sup>

There are various problems with Everhart's testimony. First, the times Everhart says he came to the motel on January 6 and drove away appear to be when Mr. Van Treese *was* likely there. Mr. Van Treese arrived at around 5:45 or 6:00 p.m., and, according to the Pike Pass reports, Mr. Van Treese would have left Oklahoma City at around 8:00 p.m. to get to Tulsa by 9:44.<sup>445</sup> This means that if Everhart came to the Best Budget Inn, as he testified in either trial, he most likely would have seen Mr. Van Treese's car in its normal parking spot. It also is unclear why Everhart would have even known to meet Mr. Van Treese that day since he said he last spoke with Mr. Van Treese two, three, or as many as four days before.<sup>446</sup> Mr. Van Treese's visit on January 6 was unscheduled, as he had not made it to the motel the day before to make the usual payroll, as they had just returned from vacation.<sup>447</sup> It also seems unlikely, if there really was a plan to meet and confront Glossip that Everhart would drive to Oklahoma City only to make a swing through the parking lot without checking to see if Glossip already had been fired. So we have serious questions about the veracity of Everhart's statements.

Equally concerning, there is no evidence that Everhart told police he had plans to meet Mr. Van Treese at the motel to confront Glossip. As a former law enforcement professional and criminal investigator, Everhart would have known that this would be critical information for police in their investigation. Yet, we have seen no record that Everhart told police these things. If this information was true, Everhart should have directed the police to contact Ms. Van Treese

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<sup>442</sup> Trial 1 Testimony of C. Everhart, Vol. 4 at pp. 105:22-106:1.

<sup>443</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at p. 207:1-6.

<sup>444</sup> *Id.* at 175:10-17.

<sup>445</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 53:2-10; January 7, 1997 Oklahoma Turnpike Authority Pikepass Statement.

<sup>446</sup> Trial 1 Testimony of C. Everhart, Vol. 4 at p. 104:10-15; Trial 2 Testimony of C. Everhart, Vol. 11 at p. 175:4-7.

<sup>447</sup> Trial 2 Testimony of D. Van Treese, Vol. 4, pp. 78:17-80:7.



to discuss the accusation that Glossip was about to be confronted and fired, as that could provide a motive for someone to kill Mr. Van Treese. But, there is no record that anything like that occurred. As with Ms. Van Treese, there are notes in the prosecution's file suggesting a possible discussion between prosecutors and Everhart, but there is no mention of any plan to meet Mr. Van Treese to confront Glossip on January 6.<sup>448</sup>

There also are serious credibility problems in general relating to Everhart that are discussed in greater detail in Section XIII. Evidence of Cliff Everhart's Lack of Credibility and Related Criminal Troubles The Jury Did Not Hear. We discuss some of them here. Everhart has been referred to as a part-time security person for the motel, although he was not on the payroll.<sup>449</sup> He claimed to have a one-percent ownership interest in the motel, but this was disputed by Ms. Van Treese.<sup>450</sup> Also, before the first trial, the family accountant submitted a letter disputing this.<sup>451</sup> We also learned in our investigation that Everhart had a reputation for being dishonest, especially in his role as an investigator at the Oklahoma Indigent Defense System.<sup>452</sup> In addition, at the time of the second trial, Everhart was being prosecuted in Oklahoma for various offenses and later pled guilty, including for the crime of "Public Officer Making False Writing" which is a misdemeanor.<sup>453</sup> Everhart spent time in prison for these offenses. It is possible the prosecution delayed finalizing the case against Everhart so as to avoid him having a conviction on his record when he testified at trial. The defense never raised these criminal proceedings against Everhart. In light of all this, we are skeptical about Everhart's

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<sup>448</sup> January 21, 1997 Oklahoma County District Attorney Case Record, Incident No. 97-002261 at p. 6.

<sup>449</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 143:19-144:5.

<sup>450</sup> *Id.* at 144:6-10.

<sup>451</sup> May 26, 1998 Letter from D. Bowdon to D. Van Treese.

<sup>452</sup> For example, see Oklahoma Indigent Defense System Mid-Year Informal Review of Cliff Everhart (April 22, 1994) (stating, "[Cliff] exhibits character deficiencies including very limited honesty and integrity that, together with other deficiencies mentioned herein, make many division attorneys reluctant to trust his work"); Memo from Randy Bauman to Robert Ganstine Regarding Cliff Everhart Performance Review (April 26, 1994) (stating, "[Cliff's] denial that he attempted to halt an investigation that led to discovery of an extremely valuable innocence claim is also a complete falsehood. There is no confusion as to the cases and no doubt that the incident occurred as described in the review.").

<sup>453</sup> August 5, 2003 Information Sheet for *State of Oklahoma v. Clifford Albert Everhart*, No. CM-2003-225; August 8, 2003 Affidavit by Chuck McAnarney for *State of Oklahoma v. Clifford Albert Everhart*, No. CM-2003-225. See 21 O.S. § 587.

testimony in the case, including his testimony regarding Glossip's alleged theft, and the jury never heard any of this information.

**c. The Story That Mr. Van Treese Was Going To fire Glossip For Stealing Originated With Bender Whose Account Is Based On Unreliable Hearsay Statements From Mr. Van Treese, Many Of Which Are Not True**

The idea that Glossip was going to be fired for stealing (and hence the potential motive) was first introduced by Bender from the Tulsa Best Budget Inn. Detective Bemo interviewed Bender at 3:40 p.m. on January 8, 1997, after Bemo heard from a Tulsa Police Department officer, Harold Wells. Detective Bender called Wells early in the morning on January 8, after he found out that Mr. Van Treese may have died. By the time Detective Bemo conducted the interview, Bender had already spoken with Wells, one of Mr. Van Treese's brothers, Ms. Van Treese, Richard Glossip, and possibly other individuals, given the time that elapsed between Bender's initial call to police and the Detective Bemo interview.<sup>454</sup> As a result, Bender's account may have been influenced by having obtained information from multiple sources. Indeed, it seems that some of what Bender told Detective Bemo could only have come from talking to other people. There is no record of anyone telling the police that Glossip was going to be confronted about missing money and possibly fired until Bender spoke with Detective Bemo. It does not appear that Detective Bemo asked Bender what information he obtained from other sources in between the time Mr. Van Treese was at Tulsa and his interview with Bender.

Per Detective Bemo's report, Bender said that Mr. Van Treese was mad when he arrived at Tulsa after coming from Oklahoma City late in the evening on January 6. Bender relayed a story purportedly told to him by Mr. Van Treese. Bender said Mr. Van Treese told him when he arrived in Tulsa that about 2,500 registration cards were missing in Oklahoma City, that he "had a lot of people in the manager's position steal from him in the past" and that he found out that Glossip had been stealing in Oklahoma City. Specifically, "Bender said Van Treese discovered he was missing 2500 registration cards from the Best Budget Inn in Oklahoma City not in consecutive order, but in different groups. Several daily reports were also missing."<sup>455</sup>

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<sup>454</sup> January 8, 1997 Police Report of B. Bemo.

<sup>455</sup> *Id.*

Bender's account to Detective Bemo regarding what Mr. Van Treese purportedly told him is unreliable hearsay, and should not have been admitted. Over the defense's objection, the Court let Bender's testimony in under the "present sense impression" exception to the hearsay rule. But, after consulting with Oklahoma counsel and conducting our own analysis, we believe this ruling was incorrect. A present-sense impression is a hearsay statement "describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter."<sup>456</sup> The theory supporting admissibility of a present sense impression is similar to that of excited utterances, i.e., "that substantial contemporaneity of the event and the statement negate the likelihood of deliberate and conscious misrepresentation."<sup>457</sup> The foundational requirements for a present-sense impression include: a startling event; a statement explaining the event or condition; made while the declarant is perceiving the event or immediately after the event.<sup>458</sup>

Mr. Van Treese's purported statements to Bender regarding what he observed at Oklahoma City and his alleged discussions with Glossip were not contemporaneous to any event. Mr. Van Treese had left Oklahoma City at around 8:00 p.m. on January 6 and did not arrive in Tulsa until after 11:00 p.m. That lapse of time, plus the fact that Mr. Van Treese's purported statements to Bender contained largely incorrect information, should have led the Court to sustain the defense objection. While the judge reasoned that Bender was describing a discussion with Mr. Van Treese while reviewing some documents,<sup>459</sup> reviewing documents is not a startling event, and the crux of Mr. Van Treese's purported out of court statements related to events that supposedly happened hours earlier and over 100 miles away.

While the Defense objected during trial, they should have anticipated this issue when Bender was listed as a prosecution witness, and should have filed a pre-trial motion to exclude the testimony. By the time Bender was on the stand, the defense seemed ill-prepared to address

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<sup>456</sup> OKLA. STAT. tit. 12, § 2803(1).

<sup>457</sup> Whinery, *Courtroom Guide to the Oklahoma Evidence Code*, 618 (West, 2005).

<sup>458</sup> *Welch v. State*, 1998 OK CR 54, 968 P. 2d 1231, 1240 (1998).

<sup>459</sup> Trial 2 Statement of Judge Gray, Vol 8 at p. 75:6-12.

the issue despite objecting. They were not armed with the legal authorities to respond to the Court's invocation of this hearsay exception.

It also was a major mistake for the Defense not to challenge the Court's admission of the evidence on appeal. Under Oklahoma law, "where hearsay evidence has been received which reasonably contributed to the verdict of guilt, the reception of such evidence is ground for reversal."<sup>460</sup> Going from bad to worse, Glossip's post-conviction lawyers did not call out the failure to raise this on appeal as constituting ineffective assistance of appellate counsel. As a result, this egregious failure has never been thoroughly addressed until now.

Besides the hearsay issue, our investigation has revealed several additional reasons why Bender's statements are not credible, and should not be relied on to support the State's motive theory:<sup>461</sup>

- Bender said that Mr. Van Treese told him several daily reports were missing in Oklahoma City, but Ms. Van Treese testified that they were able to prepare 1996 year-end and monthly revenue summaries for Oklahoma City. The information for these summaries would have come from the daily logs and the daily reports Mr. Van Treese picked up. As discussed below, Mr. Van Treese reconciled the daily reports against daily logs Ms. Van Treese prepared in order to calculate revenue. If several daily reports were missing, Ms. Van Treese would not have been able to make her year-end shortage calculations.
- As noted below, Hooper was present when Mr. Van Treese ran the daily receipts on January 6, 1997 and when Mr. Glossip brought Mr. Van Treese the money. Hooper mentioned nothing out of the ordinary, and nothing about Mr. Van Treese identifying 2500 missing registration cards, or any missing daily receipts.
- Bender said that Mr. Van Treese told him that, while in Oklahoma City, "he tried to get all his paper work together and found he was missing \$3000 dollars in deposits" and that "Rich was two or three weeks behind with some other deposits." The year-

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<sup>460</sup> *Sevier v. State*, 1960 OK CR 74, 355 P. 2d 1018, 1024 (1960).

<sup>461</sup> January 8, 1997 Police Report of B. Bemo (including the statements made by Bender in the list below).

end and monthly summaries confirm there was no missing paperwork at that time, and deposits for every single day in 1996 are listed on the monthly summaries. As discussed below, Ms. Van Treese testified that she prepared the year-end summary, and did not say she lacked any paperwork from Oklahoma City that she needed to complete the report. She said nothing about Glossip being two or three weeks behind with deposits.

- Bender said that Mr. Van Treese showed him “two sheets of paper with three columns on each,” one for Oklahoma City and one for Tulsa, and that these sheets“ contained lists of deposits for the months of September, October, November, and December for the past three years.” No three-year comparison sheets were ever produced, and Ms. Van Treese did not testify that these ever existed.<sup>462</sup>
- Bender said that Mr. Van Treese told him he had no money when he arrived at Tulsa, and that he was returning to Oklahoma City to pick up the money. This is incorrect because, as we explained previously, Mr. Van Treese picked up money from Oklahoma City on January 6, 1997—around \$2,800 (according to our calculations and Hooper’s statement to police on January 7).
- According to Bender, Mr. Van Treese said that Glossip owed him about 3 or 4 weeks of receipts that were missing from Oklahoma City totaling about \$3000; “in particular, the money missing from room #102,” and that “during one three week period he collected only \$1180 from the motel in Oklahoma City” which Bender said is only about \$38 to \$40 per day. The records do not support this statement. There is no 3 or 4 week period of missing receipts noted on the year-end or monthly summaries, and the statement regarding missing money from room 102 does not make sense. Further, there is no three-week period where Mr. Van Treese only picked up \$1180. According to the year-end summary (Exhibit 71), the average monthly amount of cash (not including credit card receipts and check payments) picked up by Mr. Van Treese was almost \$17,000.

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<sup>462</sup> If these sheets existed, they might be exculpatory and should have been produced, as they might show that the alleged shortages for 1996 were nothing out of the ordinary. If they existed, perhaps they were in the box of destroyed evidence.

- Bender asked Detective Bemo if Mr. Van Treese was found in room 102 and whether Mr. Van Treese was dressed. Bender said that Mr. Van Treese would not stay in room 102 because it had a waterbed. There is no reason for Bender to have asked about room 102, or know that room 102 had a waterbed, if he had not already received information from some other source. Further, Bender’s statement that Mr. Van Treese would not stay in a waterbed is contrary to other evidence in the case.
- Bender said Mr. Van Treese confronted Glossip about the number of rooms he rented on the weekend, “averaging between 18 to 22 on a weekend as opposed to 45 to 50 when he was in town . . . .” Mr. Van Treese likely did not say this either, or he was not providing Bender with truthful information. Based on the monthly summaries, on each weekend (assuming a weekend is Friday night and Saturday night) more than 50 rooms per weekend were rented in Oklahoma City under Glossip’s management.
- Bender’s story is internally inconsistent. He said that Mr. Van Treese told him he was going back to Oklahoma City to collect the money from Mr. Glossip, but, then, he said that he thought Mr. Van Treese was driving back home to Lawton. Even Detective Bemo was confused by this saying “I never was quite clear on what Bender was trying to tell me.”
- Bender said to Detective Bemo that Mr. Van Treese wanted Bender to run both the Oklahoma City and Tulsa motels. Yet, during the second trial, the prosecutor made an offer of proof that “William Bender was also mismanaging the motel, that it was their intention to fire him as well, that they were going to take care of the Oklahoma City motel first. And, in fact, William Bender was fired two months after, like in March.”<sup>463</sup>

Further, we assume that, if Detectives Bemo or Cook thought Bender was credible, they would have followed up with Ms. Van Treese regarding Bender’s story. An experienced detective would have sought to confirm what Bender said with Ms. Van Treese, who would likely have at least some firsthand knowledge of the situation at Oklahoma City. After that, they could have

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<sup>463</sup> Trial 2 Statement of Assistant District Attorney C. Smothermon, Vol. 4 at p. 178:16-21.

gone back to Bender to try and clear up any confusion. They also could have talked to other family members or motel employees. If Detectives Bemo or Cook did any of this, there is no reporting to confirm that such action was taken. The police did not even talk to Bender's wife, who was present when Mr. Van Treese visited that night. There also is no indication that the police reviewed any of the records from the Oklahoma City motel's office to try and verify Bender's story that Mr. Van Treese complained about missing registration cards and daily reports. There is no indication that the police attempted to locate the three-year comparison document that Bender described. They did not ask Bender if he still had these documents. They collected none of the Tulsa records, even though Bender's story was that Mr. Van Treese found that Tulsa was being managed properly in contrast to Oklahoma City. The police failed to take a full and complete inventory of the records in Mr. Van Treese's car, so we do not know if any records from the car would back up Bender's story or contradict what he was saying, and the police destroyed motel business records at the behest of the District Attorney's office.

Further, while Detective Cook presumably knew about Bemo's interview with Bender when he interviewed Hooper on January 9, 1997, he did not ask Hooper to confirm anything that Bender had said about Mr. Van Treese confronting Glossip about missing registration cards, daily reports or missing deposits. Hooper likely would have known if any such records were missing. Hooper was present when Mr. Van Treese arrived on January 6 and during interactions he had with Glossip. Indeed, it seems from Detective Cook's report that Hooper reported nothing unusual from Mr. Van Treese's visit pertaining to financials:<sup>464</sup>

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<sup>464</sup> January 9, 1997 Police Report of B. Cook.

Billye Hooper said that Barry showed up Monday (1-6-97) evening at 5:45pm at the motel. She said that Barry was there to pickup the receipts and issue pay checks. Billye said that she normally gets off work at 5pm, but she was waiting for Barry so that he could write her a check. Billye pointed out sometimes she gets paid by check and sometimes Barry paid her in cash. She said that Donna, the victim's wife has sent her pay checks in the mail and other times she has gotten money orders.

Billye said that when Barry arrived at the motel, he wasn't in a bad mood. He exchanged pleasantries with her, Rich, and D-Anna. After exchanging pleasantries, he ran the daily receipts and started talking motel business. There was mention of room 112 and how it needed to be fixed up. Billye said that she got the impression that Barry was going to spend the night and survey the room the next day for improvements..

Billye said that before she left for the day, Barry had Rich bring him the money. She said that later after Barry's body was discovered, she was asked by Cliff to run a tally on how much money Barry had been given. She said that if the dailies were correct, she figured \$2877.

At least according to the report, Detective Cook did not probe further. He did nothing to test the obvious inconsistencies between Bender's account of Mr. Van Treese's demeanor and Hooper's account. A search for the truth about what happened would have involved more probing questions.<sup>465</sup>

### **C. Ms. Van Treese's Shortage Calculations Cannot Be Considered Reliable**

#### **1. Ms. Van Treese's Shortage Calculations Were Not Supported By Company Business Records Needed To Verify Their Accuracy**

Ms. Van Treese testified that she and her husband learned about the year-end shortage on January 6, 1997, and that Mr. Van Treese was going to confront Glossip about it when he arrived in Oklahoma City later that day. Ms. Van Treese gave the following testimony in the first trial:<sup>466</sup>

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<sup>465</sup> The payment of employee wages in cash or by money orders purchased with cash described by Hooper could account for at least some of Ms. Van Treese's "shortages" if the funds were not properly accounted for on the daily reports of the business. There is no evidence this was ever explored by the police, the prosecution or by Glossip's defense teams. See further discussion below regarding the manner in which Mr. Van Treese operated the business as casting further doubt on the credibility of the shortage calculations presented by the State through Ms. Van Treese.

<sup>466</sup> Trial 1 Testimony of D. Van Treese, Vol. 3 at pp. 46:3-47:9



3 Q Now, let me ask you, did you make some compilation at the  
4 end of December concerning the year of 1996?

5 A Yes, I did.

6 Q And what compilation was that?

7 A I do this monthly and then at the end of the year, I did  
8 the year-end statement off of that.

9 Q And did you, before Mr. Van Treese left Lawton, Oklahoma,  
10 on the 6th day of January 1997, did you and Mr. Van Treese  
11 review some report that you had made?

12 A Yes.

13 Q And what report was that?

14 A It was the year-to-date report.

15 Q And was there something unusual about that report that  
16 you discussed with Mr. Van Treese?

17 A We had discussed that there was some shortages on here.  
18 At the end of each month, we determined whether it was long or  
19 short for the month on the amount of money compared to the  
20 business volume.

21 Q And did you determine that for the year of 1996 that  
22 there was some shortages?

23 A Yes.

24 Q Tell the jury about how much it was.

25 A For the year of 1996 it was \$6,101.92.

1 Q And when you and Mr. Van Treese discussed that, did you  
2 get the impression from your conversation with him that he was  
3 a little bit upset about that?  
4 A Yes.  
5 Q And what did he say to you as he left Lawton concerning  
6 the report that you've just told the jury about?  
7 A He was wanting to get some explanation.  
8 Q And who was he going to get an explanation from?  
9 A Mr. Glossip.

Ms. Van Treese also testified to this in the second trial, explaining: "At the end of each month, I would do a report and then I kept a year-to-date report. There were significant shortages for the entire year of 1996."<sup>467</sup> She then asked to "refer to my notes" (which she was allowed to do without any defense objection) and stated without any foundation being required, and without introduction of any business records, that: "For the entire year of 1996 there was a deficit, a shortage \$6,101.92. Of course, that is broken down over a 12-month period."<sup>468</sup>

Ms. Van Treese then testified about information contained on a "daily report" (but that document was never authenticated, shown to the jury or introduced into evidence):<sup>469</sup>

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<sup>467</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 63:12-14.

<sup>468</sup> *Id.* at 63:17-19.

<sup>469</sup> *Id.* at 63:20-64:16.

Q. So what you charged, if you added all that up, you had a total?

A. You had a total. That was your business volume for that day. On the left side of the daily report there is a column for cash collected. The cash collected could be cash, Visa, Mastercard, American Express, traveler's checks, comp checks, however you took in money for that day. Those were added up. That was your cash collected.

Out of that, to balance for that day, that cash collected, you took less the cash that was paid out. There was a petty cash kind of allowance for the day. You know, if you needed to run to the store and buy a can of air freshener, because you can -- you know, that's what we did. You know, that receipt was attached so you deducted that. You got your total cash that you were supposed to have in hand for the day.

Q. Tell us what a shortage is.

A. The rooms were rented. The total amount of business volume. Okay. The business volume was on the right side of the daily report. At the bottom, that was the total number of rooms that were rented, their rate plus tax. That was your business volume for that day.

These daily reports presumably contained information from which Ms. Van Treese's "shortage" calculation for 1996 could have been derived. But Ms. Van Treese did not testify to

any specific daily reports for 1996, none were offered into evidence, and none have been located. Rather, Ms. Van Treese discussed them in the most general terms.

But we know from the first trial that Ms. Van Treese actually never saw the daily reports “a lot of times,” as those were collected by Mr. Van Treese. Instead, Ms. Van Treese would obtain information about the motel finances from a daily telephone call with Best Budget Inn employees, put that information on her own “daily log” and Mr. Van Treese would later compare that information to the daily reports in calculating the business revenues.<sup>470</sup>

Q No, let me restate my question. Maybe I can cut to the chase and it would be a little bit easier. Who did the bookkeeping basically for the Best Budget Inn?

A The general bookkeeping I took care of. Barry would collect things and then he would, you know, a lot of times I never saw the daily report. He would do that himself. I had a separate log sheet. I don't see that you have it here, where I would call the motels on a daily basis.

Q Who did the bookkeeping for payroll?

A I did that.

Q Who did the bookkeeping for revenue of the hotel?

A For revenue?

Q Yes, ma'am. Who kept the books I should say for the revenue of the motel?

A Barry would do the revenue on the daily reports. He would compare those to what I had taken on my daily call.

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<sup>470</sup> *Id.* at 63:3-17.

It appears from this that the year-end summary is a compilation of information from various sources. This includes monthly reports created from the “daily logs” containing information taken by Ms. Van Treese over the phone and the “daily reports” that were picked up by Mr. Van Treese from the motel. These “daily logs” were created based on hearsay statements from motel employees who presumably had source information to look at, such as hotel registration records, cash on hand, credit card receipts, checks, receipts for purchases of supplies and other items, etc. Similarly, the “daily reports” would have been generated from this same information. These daily logs and daily reports for the year 1996 were never put into the record at trial, and there is no record of them at all. There also is no record of the source information, such as the registration records, cash on hand, credit card receipts or other receipts showing cash outlays. There are no bank deposit receipts for the cash received at the motel, because we now have confirmed through our investigation that Mr. Van Treese did not deposit money from Oklahoma City into a bank; rather he used the trunk of his car. This is discussed in more detail later.

At bottom, Ms. Van Treese was not asked to explain how the shortage was calculated for 1996, or what the cause(s) could have been if there was a real shortage. None of the source business records (the daily logs and daily reports) were presented. Yet, Ms. Van Treese was allowed to testify in the second trial that Glossip was responsible for a “shortage,” that this meant that Glossip was stealing money from the business, and that this was a revelation that concerned them greatly:<sup>471</sup>

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<sup>471</sup> *Id.* at 66:3-11.

3 | Q. Okay. So at the end of 1996, the Oklahoma City motel  
4 | managed by Mr. Richard Glossip was \$6,101.92 short on the  
5 | money you would have expected him to be able to turn over to  
6 | you?

7 | A. That is correct.

8 | Q. Now, tell me, because I don't know the motel business,  
9 | how did that make you feel? What was your reaction to the  
10 | 6000 -- missing \$6,101.92?

11 | A. We were very upset.

Ms. Van Treese added the following regarding her reaction and Mr. Van Treese's reaction to this revelation:<sup>472</sup>

12 | A. We were very concerned. We were shocked. We were  
13 | angered. You know, Barry would say to the employees, you  
14 | know, If you steal from me, you're not really stealing from  
15 | me. You know, You're taking the food -- the way I look at  
16 | it is you're taking food out of my baby's mouths.

The State offered no other evidence as to how the purported \$6,101.92 shortage was calculated, and there is no evidence the prosecution attempted to verify how Ms. Van Treese calculated this shortage so precisely and to the penny. There is no record, for instance, they engaged a forensic accountant to review the corporate books and records in order to determine if this corporate theft motive was even viable. Instead, they just presented these unverified and untested statements.

We believe the prosecution had some obligation to verify there was a shortage before arguing that Glossip was stealing money from the motel, which formed part of the motive for

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<sup>472</sup> *Id.* at 123:12-16.

him engaging in capital murder. It appears that the prosecution put on this evidence without a reasonable investigation into its accuracy. The American Bar Association (“ABA”) Standards for Criminal Justice in effect at the time of Glossip’s prosecution made clear that “[t]he duty of the prosecutor is to seek justice, not merely to convict.”<sup>473</sup> The defense also did nothing to try and verify Ms. Van Treese’s calculations.

Two forensic accountants have now confirmed that Ms. Van Treese’s shortage calculations are unreliable and cannot be verified based on the information that is available. They certainly are not evidence that anyone was stealing from the motel. They also noted mathematical errors in Ms. Van Treese’s calculations.<sup>474</sup>

In cases involving allegations of embezzlement, the State cannot simply put on a witness (including an expert witness) to testify about summaries of data without producing “the various books and records” from which the conclusions were drawn. The Defense should have objected to this too, but they failed to make any objection to Ms. Van Treese’s testimony, and no strategic reason for this failure has been offered. As the Court of Criminal Appeals has made clear, when there is testimony regarding a summary of the results of a business, the witness “may not state simply that the books show certain facts, but the books themselves must be introduced as primary evidence or their absence satisfactorily accounted for, and the testimony of the expert is secondary and explanatory only.”<sup>475</sup> In other words, opposing counsel must have full opportunity to cross examine the witness regarding the correctness of the statements. This is especially true where the books are voluminous and require explanation by an expert accountant.<sup>476</sup>

Glossip was deprived of the ability to fully challenge Ms. Van Treese’s shortage calculations, and the documents that would have allowed Glossip to definitively verify them were destroyed by the police at the District Attorney’s behest before trial (see above discussion regarding evidence destruction). In addition, a flood that Ms. Van Treese says occurred at her

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<sup>473</sup> *ABA Standards for Criminal Justice Prosecution Function and Defense Function* (3<sup>rd</sup> Ed. 1993), Standard 3-12.

<sup>474</sup> April 12, 2022 Expert Report by C. David Rhoads; Final Summary of Findings by Pam Kerr; October 18, 2016 Letter from Pam Kerr to Defense Counsel regarding summary of findings.

<sup>475</sup> *Casselman v. State*, 58 OK CR 317, 379; 54 P.2d 678 (1936).

<sup>476</sup> *Id.*

home led to the destruction of other records.<sup>477</sup> Given that alone, this “embezzlement” theory should not have been presented to the jury. The prosecution should not have presented a theory it could not verify, and the defense completely fell down in failing to object. These failures of the defense, also should have been raised on appeal and by Glossip’s post-conviction counsel.

Accordingly, the jury was told Glossip was stealing from the motel and was going to be fired for it, even though we have found no credible evidence that any of this was, in fact, true.

**2. The Shortage Calculations Are Based Entirely On A Summary Chart That Does Not Establish Any Embezzlement And Appears To Overstate Any Shortages**

**a. Since At Least Some Of The “Shortages” On The Chart Were Expected, Based On The Timing Of When Customers Paid For Their Rooms, They Cannot Be Considered Shortages At All**

The only business document introduced at trial reflecting the alleged \$6,101.92 shortage for 1996 was a redacted version of Defendant’s Exhibit 71: a document titled “Deposit vs. Volume.” Ms. Van Treese testified that she prepared this document and that it was her “summary of the 1996 year-end deposit versus volume report.”<sup>478</sup> As discussed, this document would have been prepared using some combination of Ms. Van Treese’s “daily logs,” the “daily reports” collected by Mr. Van Treese, and the “monthly reports” created from those documents. All of these summaries were created from cash, checks, receipts and other daily business records. As far as we can tell, other than Exhibit 71, only the monthly reports still exist, so there is no way to verify the accuracy of any of the information on Exhibit 71. The monthly reports were not introduced as evidence.

Exhibit 71 originally contained year-end information for Tulsa as well as Oklahoma City, but it was redacted, so only the Oklahoma City information was shown to the jury. Here is the portion of Exhibit 71 that the jury got to see, which shows the Oklahoma City information:

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<sup>477</sup> See Section VI. The State’s Destruction of Key Evidence Before Glossip’s Capital Murder Retrial Demonstrates a Breakdown of Our Criminal Justice System; Trial 2 Testimony of D. Van Treese, Vol. 4, at pp. 115:20-116:9.

<sup>478</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 133:10-21.



DEPOSIT VS. VOLUME

1996 YEAR END DEPOSIT VS. VOLUME										
MONTH	%	RPD	RM	ADR	DEPOSIT	CO	CC	T	V	D
<b>BBA</b>										
JAN	46	23	692	\$ 27.78	\$ 12,395.00	\$ 3,392.96	\$ 2,879.23	\$ 18,667.19	\$ 19,223.79	\$ (556.60)
FEB	51	25	739	\$ 27.44	\$ 13,251.43	\$ 3,039.70	\$ 3,215.12	\$ 19,506.25	\$ 20,280.63	\$ (774.38)
MAR	50	25	782	\$ 27.94	\$ 15,430.00	\$ 1,114.64	\$ 4,369.83	\$ 20,914.47	\$ 21,852.97	\$ (938.50)
APR	57	28	854	\$ 28.04	\$ 16,523.50	\$ 1,682.96	\$ 3,711.75	\$ 21,918.21	\$ 23,945.10	\$ (2,026.89)
MAY	59	29	909	\$ 28.30	\$ 19,175.00	\$ 2,466.26	\$ 3,749.30	\$ 25,390.56	\$ 25,721.64	\$ (331.08)
JUNE	58	29	877	\$ 28.31	\$ 17,860.00	\$ 2,499.03	\$ 4,382.81	\$ 24,741.84	\$ 24,832.24	\$ (90.40)
JULY	63	31	972	\$ 28.27	\$ 20,950.00	\$ 3,142.87	\$ 3,430.58	\$ 27,523.45	\$ 27,476.04	\$ 47.41
AUG	71	35	1100	\$ 28.46	\$ 24,615.00	\$ 2,203.40	\$ 4,246.72	\$ 31,065.12	\$ 31,310.76	\$ (245.64)
SEPT	66	33	985	\$ 27.93	\$ 21,720.00	\$ 1,927.39	\$ 3,808.10	\$ 27,455.49	\$ 27,507.89	\$ (52.40)
OCT	50	25	708	\$ 27.90	\$ 14,893.40	\$ 3,379.12	\$ 2,990.39	\$ 21,268.97	\$ 21,428.01	\$ (157.04)
NOV	45	23	680	\$ 28.19	\$ 13,496.00	\$ 2,337.40	\$ 3,118.00	\$ 18,951.40	\$ 19,165.80	\$ (214.40)
DEC	42	21	650	\$ 28.18	\$ 12,930.00	\$ 2,063.56	\$ 2,560.40	\$ 17,553.96	\$ 18,315.96	\$ (762.00)
T=	658	327	10008	\$336.74	\$203,239.39	\$42,468.23	\$42,468.23	\$274,956.91	\$281,058.83	\$ (6,101.92)
12/T=	55	27	834	\$ 28.06	\$ 16,936.62	\$ 3,539.02	\$ 3,539.02	\$ 22,913.08	\$ 23,421.57	\$ (508.49)

Ms. Van Treese testified that she generated this report and that it was a year-end summary of the 1996 deposits versus business volume.<sup>479</sup> We understand that, for each month, the year-end summary listed: (1) the amount of “deposits” collected, which, on this form, refers to cash, (2) the amount of “cash out,” meaning cash used by the business for miscellaneous expenses, such as supplies, (3) the amount received in credit cards and other non-cash payments, and (4) the total sum of those amounts, which would be the amount of money actually taken in by the business. The chart then compared the total amount actually collected against “business volume,” which is the column labeled “V.” If the difference was a negative number, then Ms. Van Treese would consider that to be a shortage. This is represented in the column labeled “D” for “Difference.” Indeed, Exhibit 71 illustrates that the total sum of the “D” column for each month is the \$6,101.92 shortage Ms. Van Treese testified to, which she accused Glossip of “stealing.”

However, Ms. Van Treese’s testimony demonstrates why the “shortage” amount in the “D” column is not evidence of stealing, or even evidence of “shortages” at all. There are legitimate explanations why the receipts of the business may be less than the “business volume” on any given day or month, or even at the end of the year. First, Ms. Van Treese explained that

<sup>479</sup> *Id.* at 133:17-21.

the business volume does not refer to monies collected for the day, rather it is "the amount of business that was run that day, whether you collected for that room or not."<sup>480</sup> Ms. Van Treese elaborated in detail what this means, and the legitimate reasons why the motel might not collect on any day or month the amount of the "business volume":<sup>481</sup>

A. Okay. When you rent a room, as I explained earlier, you put the date that they checked in, their name, the date that they've paid through. Now, on that particular day, they paid for -- the amount of money you collected on January 6th for that room was written in the left-hand column. That is the cash collected. Okay?

And, say, if that would have been on a Monday, we had several people come in that had paid for more than one day. Okay? Say, they had paid for four days in that room. That amount would go in the left-hand column, which is the cash collected column. As you follow that row across on your daily report, you would not put that they paid the daily rate times four in the daily rate column, you would put a daily rate in there.

And then on the next day, say, they had paid for

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<sup>480</sup> *Id.* at 136:5-12.

<sup>481</sup> *Id.* at 137:11-138:25.

Monday, Tuesday, Wednesday, Thursday, on Tuesday in the paid column you would write PPD, which is prepaid. They prepaid for that room. Okay? There may not be any on that daily sheet, but then across over, you'll follow that line across over there again, and in the rate column you would put a daily rate they were charged for that room.

Then at the end of each month as these are compiled, it's supposed to all average out and balance out. There are a few -- now, there will be a few discrepancies on that.

Say, you have -- say that -- say, the end of the month ends in the middle of the week, well, you're going to have a little overage or a little shortage. Say -- you know, say, you have someone that says -- comes in and says, Okay. I'm out of money right now, I get paid on Friday, my boss is staying in this other room and he's going to make sure that I come back and pay my bill on Friday. He is not going to pay until the end of that week, so then you would have three or four days there that would show on the daily report that it was XO, meaning that it was owed for. And so there would be that difference from there.

But an overall average at the end of each month -- and you'll see on the deposit versus volume, some of those, let me just refer to July, we were over \$47.41. There's not a parenthesis around that number. So that means that was an overage figure. Does that help you?

This means that at least some of each month's "shortages" are explained by the timing of the motel guests' payments, and if some guests paid in 1995 for rooms reserved into 1996, those monies would never be recorded in 1996, and thus would show up as a "shortage" for 1996 even

though they were already paid in 1995. In addition, if someone stayed for several days at the end of 1996, but didn't pay until 1997, those amounts would show up as a shortage for 1996 even though they actually paid later. As a result, some level of "shortage" on the report was to be expected, yet Ms. Van Treese testified that the entire shortage on the chart — \$6,101.92 — was attributable to Glossip stealing money. This negative implication was perpetuated by the prosecution, and never cleared up by the defense. Moreover, without more documentation from the business, the amount of these expected "shortages" cannot be definitively calculated. This issue was not explained to the jury.

**b. The Shortage Numbers On Exhibit 71 Do Not Account For Adjustments That Were Written On The Motel's Monthly Reports**

Ms. Van Treese testified that they had another sheet that calculated "shortages" on a monthly basis, such that the information was available to Mr. and Ms. Van Treese every month.<sup>482</sup> While these monthly reports were not introduced into evidence, they were saved from the evidence destruction discussed above. While the "daily reports," "daily logs," and source documents are not available to verify the information on the monthly reports, we can tell from the monthly reports that there were certain adjustments made in handwriting. These adjustments actually reduced the shortage amounts for April from a \$2,026.89 shortage to a \$1,368.57 shortage, and in June, the shortage was reduced from \$90.40 to \$62.07. These adjustments did not make it into the summary Exhibit 71. Here are the April and June monthly reports, with the handwritten adjustments highlighted:

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<sup>482</sup> *Id.* at 63:12-19; 139:22-140:20.

DEPOSIT VS. VOLUME

DBA - APRIL 1996	DEPOSIT VS. VOLUME									
NOTE*	DAY	RM	ADR	DEPOSIT	CO	CC	T	V	D	
Rich Glossip, Mgr.	1 MON	27	\$ 28.25	\$ 610.00	\$ 45.41	\$ 119.00	\$ 774.41	\$ 762.75	\$ 11.66	
	2 TUE	23	\$ 27.82	\$ 595.00	\$ 8.49	\$ 28.64	\$ 632.13	\$ 639.86	\$ (7.73)	
	3 WED	20	\$ 26.49	\$ 395.00	\$ -	\$ 84.82	\$ 479.82	\$ 529.80	\$ (49.98)	
	4 THU	20	\$ 26.14	\$ 430.00	\$ 17.57	\$ 53.97	\$ 501.54	\$ 522.80	\$ (21.26)	
	5 FRI	34	\$ 28.64	\$ 690.00	\$ 146.18	\$ 174.05	\$ 1,010.23	\$ 973.76	\$ 36.47	
	6 SAT	30	\$ 28.26	\$ 560.00	\$ 35.26	\$ 123.40	\$ 718.66	\$ 847.80	\$ (129.14)	
	7 SUN	18	\$ 27.01	\$ 330.00	\$ -	\$ -	\$ 330.00	\$ 486.18	\$ (156.18)	
	8 MON	20	\$ 27.01	\$ 465.00	\$ -	\$ 26.43	\$ 491.43	\$ 540.20	\$ (48.77)	
	9 TUE	22	\$ 27.43	\$ 375.00	\$ 41.46	\$ 168.53	\$ 584.99	\$ 603.46	\$ (18.47)	
	10 WED	27	\$ 28.04	\$ 400.00	\$ 133.11	\$ 85.92	\$ 619.03	\$ 757.08	\$ (138.05)	
	11 THU	38	\$ 28.05	\$ 740.00	\$ 98.63	\$ 233.54	\$ 1,072.17	\$ 1,065.90	\$ 6.27	
	12 FRI	43	\$ 28.58	\$ 800.00	\$ 116.37	\$ 259.97	\$ 1,176.34	\$ 1,228.94	\$ (52.60)	
	13 SAT	44	\$ 28.59	\$ 1,050.00	\$ 13.77	\$ 198.27	\$ 1,262.04	\$ 1,257.96	\$ 4.08	
	14 SUN	24	\$ 27.72	\$ 438.50	\$ 152.24	\$ 198.27	\$ 789.01	\$ 665.28	\$ 123.73	
	15 MON	28	\$ 27.62	\$ 340.00	\$ 45.37	\$ 255.55	\$ 640.92	\$ 773.36	\$ (132.44)	
	16 TUE	35	\$ 27.60	\$ 545.00	\$ -	\$ 307.31	\$ 852.31	\$ 966.00	\$ (113.69)	
	17 WED	28	\$ 27.97	\$ 485.00	\$ 19.69	\$ 116.77	\$ 621.46	\$ 783.16	\$ (161.70)	
	18 THU	34	\$ 28.09	\$ 845.00	\$ -	\$ 85.93	\$ 930.93	\$ 955.06	\$ (24.13)	
	19 FRI	35	\$ 28.29	\$ 770.00	\$ 38.56	\$ 212.64	\$ 1,021.20	\$ 990.15	\$ 31.05	
	20 SAT	39	\$ 29.26	\$ 740.00	\$ 38.82	\$ 158.66	\$ 937.48	\$ 1,141.14	\$ (203.66)	
	21 SUN	18	\$ 28.03	\$ 535.00	\$ -	\$ -	\$ 535.00	\$ 504.54	\$ 30.46	
	22 MON	23	\$ 27.68	\$ 395.00	\$ 61.26	\$ 35.26	\$ 491.52	\$ 636.64	\$ (145.12)	
	23 TUE	25	\$ 27.67	\$ 520.00	\$ 30.00	\$ 52.86	\$ 602.86	\$ 691.75	\$ (88.89)	
	24 WED	26	\$ 28.51	\$ 470.00	\$ -	\$ 83.71	\$ 553.71	\$ 741.26	\$ (187.55)	
	25 THU	28	\$ 27.97	\$ 675.00	\$ 90.26	\$ 26.43	\$ 791.69	\$ 783.16	\$ 8.53	
	26 FRI	34	\$ 28.45	\$ 630.00	\$ 120.60	\$ 132.92	\$ 883.52	\$ 967.30	\$ (83.78)	
	27 SAT	33	\$ 27.71	\$ 735.00	\$ -	\$ 28.64	\$ 763.64	\$ 914.43	\$ (150.79)	
	28 SUN	20	\$ 27.54	\$ 400.00	\$ 48.16	\$ 165.00	\$ 613.16	\$ 550.80	\$ 62.36	
	29 MON	28	\$ 28.41	\$ 110.00	\$ 323.01	\$ 182.89	\$ 615.90	\$ 795.48	\$ (179.58)	
	30 TUE	30	\$ 28.97	\$ 450.00	\$ 58.74	\$ 112.37	\$ 621.11	\$ 869.10	\$ (247.99)	
							\$		\$	
			854	\$837.80	\$16,523.50	\$1,682.96	\$3,711.75	\$21,918.21	\$23,945.10	\$ (2,026.89)
							+ 442.84		\$(2,026.89)	
		28	RPD						(1584.05)	
			ADR	\$ 28.04			22 361.05		(1368.57)	
		57%								

Pd 5/13/96 Pd Fuglsang RR - 442.84  
Pd Fuglsang OWES 215.48

DEPOSIT VS. VOLUME

BBA - JUNE 1996	DEPOSIT VS. VOLUME									
NOTE*	DAY	RM	ADR	DEPOSIT	CO	CC	T	V	D	
Rich Glossip, Mgr.	1	SAT	40	\$ 28.92	\$ 875.00	\$ 35.82	\$ 213.74	\$ 1,124.56	\$ 1,156.80	\$ (32.24)
	2	SUN	21	\$ 27.12	\$ 505.00	\$ 40.00	\$ 87.03	\$ 632.03	\$ 569.52	\$ 62.51
	3	MON	26	\$ 27.62	\$ 580.00	\$ 94.00	\$ 27.54	\$ 701.54	\$ 718.12	\$ (16.58)
	4	TUE	23	\$ 28.59	\$ 450.00	\$ 64.81	\$ 55.07	\$ 569.88	\$ 657.57	\$ (87.69)
	5	WED	22	\$ 28.54	\$ 450.00	\$ 10.47	\$ 172.96	\$ 633.43	\$ 627.88	\$ 5.55
	6	THU	22	\$ 27.54	\$ 380.00	\$ -	\$ 176.26	\$ 556.26	\$ 605.88	\$ (49.62)
	7	FRI	40	\$ 29.28	\$ 1,105.00	\$ 207.00	\$ 26.43	\$ 1,338.43	\$ 1,171.20	\$ 167.23
	8	SAT	41	\$ 29.21	\$ 860.00	\$ 29.37	\$ 416.42	\$ 1,305.79	\$ 1,197.61	\$ 108.18
	9	SUN	27	\$ 28.40	\$ 725.00	\$ -	\$ 131.13	\$ 856.13	\$ 766.80	\$ 89.33
	10	MON	27	\$ 28.15	\$ 345.00	\$ 171.00	\$ 319.26	\$ 835.26	\$ 760.05	\$ 75.21
	11	TUE	28	\$ 27.54	\$ 545.00	\$ 38.97	\$ 88.14	\$ 672.11	\$ 771.12	\$ (99.01)
	12	WED	23	\$ 27.63	\$ 315.00	\$ 103.48	\$ 116.78	\$ 535.26	\$ 635.49	\$ (100.23)
	13	THU	38	\$ 27.71	\$ 720.00	\$ 21.79	\$ 185.11	\$ 926.90	\$ 1,052.98	\$ (126.08)
	14	FRI	35	\$ 28.10	\$ 915.00	\$ -	\$ 26.43	\$ 941.43	\$ 983.50	\$ (42.07)
	15	SAT	40	\$ 28.42	\$ 880.00	\$ 113.51	\$ 234.68	\$ 1,228.19	\$ 1,136.80	\$ 91.39
	16	SUN	29	\$ 28.75	\$ 680.00	\$ 100.00	\$ 124.51	\$ 904.51	\$ 833.75	\$ 70.76
	17	MON	30	\$ 28.51	\$ 635.00	\$ 59.58	\$ 113.46	\$ 808.04	\$ 855.30	\$ (47.26)
	18	TUE	32	\$ 27.64	\$ 550.00	\$ 146.44	\$ 136.58	\$ 833.02	\$ 884.48	\$ (51.46)
	19	WED	29	\$ 28.03	\$ 550.00	\$ 127.09	\$ 87.03	\$ 764.12	\$ 812.87	\$ (48.75)
	20	THU	29	\$ 28.26	\$ 575.00	\$ 48.24	\$ 150.43	\$ 773.67	\$ 819.54	\$ (45.87)
	21	FRI	30	\$ 28.53	\$ 575.00	\$ 32.55	\$ 201.59	\$ 809.14	\$ 855.90	\$ (46.76)
	22	SAT	39	\$ 28.22	\$ 720.00	\$ 114.44	\$ 366.73	\$ 1,201.17	\$ 1,100.58	\$ 100.59
	23	SUN	26	\$ 28.98	\$ 765.00	\$ 25.25	\$ 57.28	\$ 847.53	\$ 753.48	\$ 94.05
	24	MON	32	\$ 28.50	\$ 200.00	\$ 491.71	\$ 196.14	\$ 887.85	\$ 912.00	\$ (24.15)
	25	TUE	22	\$ 28.59	\$ 315.00	\$ 99.62	\$ 93.65	\$ 508.27	\$ 628.54	\$ (120.27)
	26	WED	22	\$ 28.24	\$ 210.00	\$ 210.60	\$ 150.94	\$ 571.54	\$ 621.28	\$ (49.74)
	27	THU	21	\$ 28.22	\$ 445.00	\$ 8.57	\$ 92.56	\$ 546.13	\$ 592.62	\$ (46.49)
	28	FRI	31	\$ 28.53	\$ 690.00	\$ 46.52	\$ 147.63	\$ 884.15	\$ 884.43	\$ (0.28)
	29	SAT	31	\$ 28.07	\$ 725.00	\$ 36.00	\$ 89.23	\$ 850.23	\$ 870.17	\$ (19.94)
	30	SUN	21	\$ 28.38	\$ 575.00	\$ 22.20	\$ 98.07	\$ 695.27	\$ 595.98	\$ 99.29
								\$ -		\$ -
			877	\$848.22	\$17,860.00	\$2,499.03	\$4,382.81	\$24,741.84	\$24,832.24	\$ (90.40)
										\$ (90.40)
		29	RPD							
			ADR	\$ 28.31						
		58%								

17,860.00 2499.03 4382.81 24761.84 24832.24 62.07

Wary Pool Answer \*52.86 owed

These reduced shortage amounts are not reflected in Ms. Van Treese's year-end summary (Exhibit 71) and these adjustments were not raised on either direct or cross examination for the jury to consider. Therefore, if there even was a shortage for 1996, the evidence put forth by the State overstated the amount. Other handwritten notes on the monthly reports indicate that adjustments were not factored into any of the calculations. However, neither the prosecution

nor the defense asked about these notes.<sup>483</sup> For these additional reasons, the evidence put forth by the State regarding a \$6,101.92 shortage appears to not be supported. The jury was not presented with this information.

**c. The ADR Numbers Are Rounded Such That They Do Not Result In An Accurate Number For “Business Volume”**

Ms. Van Treese explained that they calculated “business volume” by taking the number of rooms per day and multiplied them by the ADR. The ADR is calculated by adding up the room charges and taxes for each room rented, as opposed to actual amounts received, and dividing that by the total number of rooms rented. While the daily reports for 1996 no longer exist, as they were destroyed before trial, we do have portions of daily reports for the first week of January 1997.<sup>484</sup> These reports do not relate to the period when the alleged shortage occurred, but we can see from these reports, that ADR numbers are not precise, since they are rounded up or down. Therefore, the resulting business volume figure is necessarily inaccurate, and over a course of a full year, this could lead to a meaningful discrepancy. This methodology of rounding numbers up or down may be an appropriate business forecasting method, but it is not appropriate when attempting to show embezzlement as a motive in a capital murder case. For 1996, there is no way to determine how this method impacts the shortage calculation, as the daily reports necessary to calculate the “true ADR” have been destroyed. The jury was not presented with this information.

**d. The Shortage Calculation Understates The Amount Of Cash Collected By The Motel On A Daily Basis Because Mr. Van Treese Seemingly Did Not Collect And Record All Cash He Received, And This Could Account For The Purported Shortages**

The “deposit” column on Exhibit 71 reflects the amount of cash that Mr. Van Treese picked up from the motel when he collected the receipts. In looking at Exhibit 71, and the monthly reports for 1996 that were not introduced into evidence, it seems clear that Mr. Van

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<sup>483</sup> We attempted to interview Ms. Van Treese as part of our investigation so that we could obtain some explanation of the various reports and handwritten notes, but were unable to make contact with her.

<sup>484</sup> January 1, 1997 to January 8, 1997 Best Budget Inn Daily Reports.

Treese did not collect and record all cash received by the motel.<sup>485</sup> This practice is demonstrated by the fact that the dollar amounts in the “deposit” column for all but four out of 365 days in 1996 were multiples of 5 or 10. For example, this was the case for every single day during the month of December 1996:

DEPOSIT VS. VOLUME

BBA - DEC. 1996	DEPOSIT VS. VOLUME									
NOTE*	DAY	RM	ADR	DEPOSIT	CO	CC	T	V	D	
Rich Glossip, Mgr.	1	SUN	18	\$ 27.48	\$ 580.00	\$ 42.06	\$ -	\$ 622.06	\$ 494.64	\$ 127.42
	2	MON	20	\$ 27.54	\$ 345.00	\$ 129.99	\$ 26.43	\$ 501.42	\$ 550.80	\$ (49.38)
	3	TUE	20	\$ 28.03	\$ 370.00	\$ 32.06	\$ 111.25	\$ 513.31	\$ 560.60	\$ (47.29)
	4	WED	20	\$ 28.15	\$ 440.00	\$ 2.06	\$ 92.55	\$ 534.61	\$ 563.00	\$ (28.39)
	5	THU	19	\$ 27.77	\$ 400.00	\$ 52.06	\$ 28.64	\$ 480.70	\$ 527.63	\$ (46.93)
	6	FRI	26	\$ 28.26	\$ 665.00	\$ 20.28	\$ 28.64	\$ 713.92	\$ 734.76	\$ (20.84)
	7	SAT	31	\$ 29.10	\$ 820.00	\$ 5.06	\$ 56.18	\$ 881.24	\$ 902.10	\$ (20.86)
	8	SUN	22	\$ 28.06	\$ 490.00	\$ 22.06	\$ 81.50	\$ 593.56	\$ 617.32	\$ (23.76)
	9	MON	20	\$ 27.87	\$ 110.00	\$ 456.32	\$ 117.87	\$ 684.19	\$ 557.40	\$ 126.79
	10	TUE	19	\$ 27.77	\$ 395.00	\$ 22.06	\$ 91.50	\$ 508.56	\$ 527.63	\$ (19.07)
	11	WED	22	\$ 28.39	\$ 400.00	\$ 19.06	\$ 185.10	\$ 604.16	\$ 624.58	\$ (20.42)
	12	THU	21	\$ 27.48	\$ 495.00	\$ 2.06	\$ 57.28	\$ 554.34	\$ 577.08	\$ (22.74)
	13	FRI	22	\$ 27.67	\$ 525.00	\$ 36.06	\$ -	\$ 561.06	\$ 608.74	\$ (47.68)
	14	SAT	30	\$ 28.20	\$ 730.00	\$ 38.66	\$ 58.39	\$ 827.05	\$ 846.00	\$ (18.95)
	15	SUN	17	\$ 27.54	\$ 360.00	\$ 2.06	\$ 82.61	\$ 444.67	\$ 468.18	\$ (23.51)
	16	MON	18	\$ 27.60	\$ 265.00	\$ 102.40	\$ 27.54	\$ 394.94	\$ 496.80	\$ (101.86)
	17	TUE	18	\$ 27.78	\$ 330.00	\$ 2.06	\$ 188.37	\$ 520.43	\$ 500.04	\$ 20.39
	18	WED	21	\$ 28.43	\$ 380.00	\$ 112.40	\$ 84.82	\$ 577.22	\$ 597.03	\$ (19.81)
	19	THU	19	\$ 27.19	\$ 440.00	\$ 2.06	\$ 55.07	\$ 497.13	\$ 516.61	\$ (19.48)
	20	FRI	28	\$ 28.17	\$ 385.00	\$ 299.25	\$ 82.71	\$ 766.96	\$ 788.76	\$ (21.80)
	21	SAT	21	\$ 28.58	\$ 320.00	\$ 112.75	\$ 90.33	\$ 523.08	\$ 600.18	\$ (77.10)
	22	SUN	14	\$ 27.46	\$ 205.00	\$ 42.06	\$ 89.24	\$ 336.30	\$ 384.44	\$ (48.14)
	23	MON	17	\$ 27.93	\$ 370.00	\$ 22.06	\$ 59.49	\$ 451.55	\$ 474.81	\$ (23.26)
	24	TUE	13	\$ 27.93	\$ 275.00	\$ 32.06	\$ 35.26	\$ 342.32	\$ 363.09	\$ (20.77)
	25	WED	12	\$ 28.18	\$ 170.00	\$ 22.06	\$ 94.76	\$ 286.82	\$ 338.16	\$ (51.34)
	26	THU	21	\$ 27.85	\$ 475.00	\$ 2.06	\$ 59.49	\$ 536.55	\$ 584.85	\$ (48.30)
	27	FRI	24	\$ 28.08	\$ 280.00	\$ 232.21	\$ 57.28	\$ 569.49	\$ 673.92	\$ (104.43)
	28	SAT	27	\$ 28.64	\$ 500.00	\$ 14.06	\$ 236.86	\$ 750.92	\$ 773.28	\$ (22.36)
	29	SUN	19	\$ 27.89	\$ 415.00	\$ 13.82	\$ 55.07	\$ 483.89	\$ 529.91	\$ (46.02)
	30	MON	20	\$ 27.98	\$ 340.00	\$ 103.97	\$ 92.55	\$ 536.52	\$ 559.60	\$ (23.08)
	31	TUE	31	\$ 31.42	\$ 655.00	\$ 66.37	\$ 233.62	\$ 954.99	\$ 974.02	\$ (19.03)
			650	\$870.42	\$12,930.00	\$2,063.56	\$2,560.40	\$17,553.96	\$18,315.96	\$ (762.00)
										\$ (762.00)
		21	RPD							
			ADR	\$ 28.18						
		42%								

This means that Mr. Van Treese did not pick up dollar bills and change and did not record those amounts on his reports. This is consistent with the fact that the handwritten notes on the cash envelopes recovered in Mr. Van Treese’s trunk also show that he did not collect anything

<sup>485</sup> Defendant’s Exhibit 71, 1996 Best Budget Inn Monthly Reports.



less than 5 dollar bills.<sup>486</sup> In comparison, the credit card column (“CC”) on the year-end and monthly reports more accurately reflects the receipts collected as they are written down to the penny. Interestingly, for the Tulsa motel’s summaries, the deposit column on the year-end report is down to the penny. This is likely because the Tulsa receipts were deposited in the bank, while the Oklahoma City cash receipts were deposited in Mr. Van Treese’s trunk.<sup>487</sup>

The following chart is the un-redacted version of Exhibit 71, which contains the year-end summaries for Oklahoma City (top) and Tulsa (bottom). This shows the differences in the cash collected between the two motels in the “Deposit” column. Notably, for the Tulsa motel, not a single month in 1996 had cash collected that equaled a multiple of 5 or 10 dollars.

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<sup>486</sup> State’s Exhibit 10.

<sup>487</sup> The few pictures of the \$23,100 found in Mr. Van Treese’s trunk do not include any dollar bills and there was no change identified as being recovered from the trunk. The failure of the police to fully inventory the \$23,100 in cash from the Trunk and the issues associated with that are discussed elsewhere in this report. See State Exhibit 11 for a picture of the cash in Mr. Van Treese’s trunk.

DEPOSIT VS. VOLUME

996 YEAR END DEPOSIT VS. VOLUME										
MONTH	%	RPD	RM	ADR	DEPOSIT	CO	CC	T	V	D
IBA										
AN	46	23	692	\$ 27.78	\$ 12,395.00	\$ 3,392.96	\$ 2,879.23	\$ 18,667.19	\$ 19,223.79	\$ (556.60)
EB	51	25	739	\$ 27.44	\$ 13,251.43	\$ 3,039.70	\$ 3,215.12	\$ 19,506.25	\$ 20,280.63	\$ (774.38)
MAR	50	25	782	\$ 27.94	\$ 15,430.00	\$ 1,114.64	\$ 4,369.83	\$ 20,914.47	\$ 21,852.97	\$ (938.50)
APR	57	28	854	\$ 28.04	\$ 16,523.50	\$ 1,682.96	\$ 3,711.75	\$ 21,918.21	\$ 23,945.10	\$ (2,026.89)
MAY	59	29	909	\$ 28.30	\$ 19,175.00	\$ 2,466.26	\$ 3,749.30	\$ 25,390.56	\$ 25,721.64	\$ (331.08)
JUNE	58	29	877	\$ 28.31	\$ 17,860.00	\$ 2,499.03	\$ 4,382.81	\$ 24,741.84	\$ 24,832.24	\$ (90.40)
JULY	63	31	972	\$ 28.27	\$ 20,950.00	\$ 3,142.87	\$ 3,430.58	\$ 27,523.45	\$ 27,476.04	\$ 47.41
AUG	71	35	1100	\$ 28.46	\$ 24,615.00	\$ 2,203.40	\$ 4,246.72	\$ 31,065.12	\$ 31,310.76	\$ (245.64)
SEPT	66	33	985	\$ 27.93	\$ 21,720.00	\$ 1,927.39	\$ 3,808.10	\$ 27,455.49	\$ 27,507.89	\$ (52.40)
OCT	50	25	708	\$ 27.90	\$ 14,893.40	\$ 3,379.12	\$ 2,990.39	\$ 21,208.97	\$ 21,426.01	\$ (157.04)
NOV	45	23	680	\$ 28.19	\$ 13,496.00	\$ 2,337.40	\$ 3,118.00	\$ 18,951.40	\$ 19,165.80	\$ (214.40)
DEC	42	21	650	\$ 28.18	\$ 12,930.00	\$ 2,063.56	\$ 2,560.40	\$ 17,553.96	\$ 18,315.96	\$ (762.00)
=	658	327	10008	\$336.74	\$203,239.39	\$42,468.23	\$42,468.23	\$274,956.91	\$281,058.83	\$ (6,101.92)
2/T=	55	27	834	\$ 28.06	\$ 16,936.62	\$ 3,539.02	\$ 3,539.02	\$ 22,913.08	\$ 23,421.57	\$ (508.49)
IBT	%	RPD	RM	ADR	DEP	CO	CC	T	V	DIFF.
AN	60	15	463	\$ 26.40	\$ 10,085.45	\$ 1,521.30	\$ 506.14	\$ 12,112.89	\$ 12,224.78	\$ (111.89)
EB	72	18	519	\$ 26.16	\$ 12,076.11	\$ 1,025.82	\$ 446.18	\$ 13,548.11	\$ 13,578.32	\$ (30.21)
MAR	66	16	508	\$ 26.18	\$ 11,101.97	\$ 1,503.56	\$ 545.35	\$ 13,150.88	\$ 13,299.10	\$ (148.22)
APR	79	20	591	\$ 26.68	\$ 12,844.57	\$ 2,082.17	\$ 452.41	\$ 15,379.15	\$ 15,769.32	\$ (390.17)
MAY	79	20	612	\$ 27.79	\$ 13,346.75	\$ 2,480.94	\$ 729.11	\$ 16,556.80	\$ 17,006.20	\$ (449.40)
JUNE	74	19	557	\$ 27.11	\$ 11,181.52	\$ 2,569.10	\$ 534.10	\$ 14,284.72	\$ 15,102.78	\$ (818.06)
JULY	75	19	583	\$ 26.85	\$ 10,681.02	\$ 3,669.68	\$ 1,077.24	\$ 15,427.94	\$ 15,651.21	\$ (223.27)
AUG	78	20	607	\$ 26.76	\$ 12,187.13	\$ 1,909.40	\$ 467.62	\$ 14,564.15	\$ 16,246.06	\$ (1,681.91)
SEPT	71	18	533	\$ 27.84	\$ 10,023.12	\$ 1,984.06	\$ 1,023.42	\$ 13,030.60	\$ 14,841.22	\$ (1,810.62)
OCT	68	17	529	\$ 27.64	\$ 11,168.32	\$ 2,381.99	\$ 976.88	\$ 14,527.19	\$ 14,619.65	\$ (92.46)
NOV	64	16	482	\$ 27.85	\$ 9,623.78	\$ 3,137.31	\$ 1,519.99	\$ 14,281.08	\$ 13,424.64	\$ 856.44
DEC	58	15	452	\$ 27.44	\$ 9,910.92	\$ 1,763.20	\$ 400.75	\$ 12,074.87	\$ 12,401.88	\$ (327.01)
=	844	213	6436	\$324.70	\$134,230.66	\$26,028.53	\$ 8,679.19	\$168,938.38	\$174,165.16	\$ (5,226.78)
2/T=	70	18	536	\$ 27.06	\$ 11,185.89	\$ 2,169.04	\$ 723.27	\$ 14,078.20	\$ 14,513.76	\$ (435.57)
OTAL=					\$337,470.05	\$68,496.76	\$51,147.42	\$443,895.29	\$455,223.99	\$ (11,328.70)

Given the clientele at the Best Budget Inn in Oklahoma City, we would expect that many customers paid with dollar bills and change. Since Ms. Van Treese's shortage calculation, even if accepted, amounts to around \$16 per day, this discrepancy easily can amount to the entirety of her shortage calculation, meaning there was no shortage at all. The jury was not presented with this information.

**e. Mr. Van Treese's Business Practices Make Any Shortage Calculation Questionable And Certainly Not Evidence Of Stealing**

The Oklahoma City Best Budget Inn was nearly an all cash business. For 1996, at least 74% of the business receipts collected were in cash according to Ms. Van Treese's year-end summary. At least \$17,000 in cash passed through the business each month, and more than

\$203,000 in cash went through the motel in 1996 according to the same report. We have seen no record that any of this money was deposited in a bank.<sup>488</sup> At least \$23,100 was found in the trunk of Mr. Van Treese's car. Ms. Van Treese testified during the first trial that Mr. Van Treese "would pick up the money on a periodic basis from the motel and put the money into his trunk," so the money in the trunk "was motel revenue."<sup>489</sup> The money, along with the envelopes holding the money, were returned to Ms. Van Treese before trial.<sup>490</sup> During the retrial, Ms. Van Treese modified her account of the \$23,100 in the trunk. When asked about the trunk money, Ms. Van Treese testified that Mr. Van Treese "normally did not carry that large amount of cash" and that this cash was money being saved to make a balloon payment on the Oklahoma City mortgage that was due in September. She stated that the balloon note was \$100,000. As Ms. Van Treese put it, "And so that was his way of collecting enough money to be able to pay that balloon note and all that money was revenue from the motel, receipts from the motel."<sup>491</sup>

Through our investigation, we obtained the mortgage documents on the Oklahoma City motel as it went into a foreclosure proceeding after Mr. Van Treese's death. We were unable to locate any note that carried a balloon payment. We believe that the cash found in the trunk is more consistent with Mr. Van Treese's normal business practices, rather than the notion that he was saving money in the trunk of his car for a balloon payment.

For example, we have learned through our investigation that for several years, including up to the time of the murder, Mr. Van Treese had issues with the Internal Revenue Service and other creditors, including state tax authorities, and would avoid depositing money in banks. Mr. Van Treese's accountant told us that the IRS had levied his bank accounts, so it was not surprising that Mr. Van Treese was holding large amounts of cash in his car, including the trunk.<sup>492</sup> The

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<sup>488</sup> While financial records may have been recovered by the police from Mr. Van Treese's car, including deposit books, the DA authorized their destruction before Trial 2.

<sup>489</sup> Trial 1 Testimony of D. Van Treese, Vol. 5 at p. 85:15-18.

<sup>490</sup> *Id.* at 84:11-85:8.

<sup>491</sup> *Id.* at 15:23-16:13. Not all of the money from the trunk was photographed and the police did not write down all of the denominations, but we know that at least some of the money (\$1,600 in hundred dollar bills) appeared to be stained with blue dye. As Officer McMahon noted in Trial 1, this dye indicates that the cash could have been bait money from a bank robbery. Trial 1 Testimony of J. McMahon, Vol. 5 at pp. 8:21-9:7. It does not appear the police fully investigated this.

<sup>492</sup> April 2022 Reed Smith Interview of Van Treese's Personal CPA Dudley Bowdon.

accountant recounted to us the incident from September 1996, when Mr. Van Treese went to his car after they had dinner together, pulled out an envelope with cash from under the driver's seat, and proceeded to pay the accountant \$800 for his services. The accountant wrote out a receipt to Mr. Van Treese on a restaurant napkin.<sup>493</sup>

Mr. Van Treese's practice of handling money out of his car and outside of the banking system leads us to conclude that any shortage calculated by Ms. Van Treese could be the result of funds being unaccounted for over the course of a year of handling cash in this manner. Alternatively, there could be funds that Mr. Van Treese was shielding from the IRS and other taxing authorities or creditors.

These practices were not isolated, but appear to have been longstanding. Mr. and Ms. Van Treese were sued in the early 1990s by a mortgage holder of their motel in Weatherford, Oklahoma. They testified at a "Hearing on Assets" on March 29, 1993.<sup>494</sup> Mr. Van Treese described his real property assets and numerous mortgages, totaling hundreds of thousands of dollars outstanding, including a judgment that had been obtained against him by one mortgage holder for \$119,000 and later was reduced to \$75,000 by agreement.<sup>495</sup> Mr. Van Treese was paying \$250 monthly to satisfy that obligation. Mr. Van Treese also discussed close to \$600,000 in mortgages on the Oklahoma City Best Budget Inn.

Mr. Van Treese described how he had gotten sick in 1988 and got "upside down" with the IRS. He stated that, since that time, "[W]e have not hardly had a bank."<sup>496</sup> Instead, they made payroll with "Circle K money orders, et cetera and tried to deal basically on a cash basis, which makes it most difficult. We have had a couple of small accounts that we have just out of sheer necessity where they absolutely require a check."<sup>497</sup> Mr. Van Treese also testified that the debt load he was carrying since he became ill had "taken every cent we could muster to keep our head above water."<sup>498</sup>

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<sup>493</sup> April 2022 Reed Smith Interview of Van Treese's Personal CPA Dudley Bowdon.

<sup>494</sup> *Estate of J.E. Tankersley*, Hearing on Assets of Barry Van Treese and Donna Van Treese (March 29, 1993).

<sup>495</sup> *Id.* at 7:20-23.

<sup>496</sup> *Id.* at 13:9-10.

<sup>497</sup> *Id.* at 13:10-15.

<sup>498</sup> *Id.* at 14:13-16.

We agree it is “most difficult” to deal exclusively in cash, and this includes accounting properly for the cash flow which could lead to perceived shortages that have nothing to do with any employee theft. Mr. Van Treese explained that he started dealing in cash since his deal with the IRS in July of 1990.<sup>499</sup> He described paying for cashier’s checks using 100 dollar bills, and stated that he just bought cashier’s checks to pay the bills rather than putting money in the bank.<sup>500</sup> Only credit card receipts from the motels were run through banks.<sup>501</sup>

Mr. Van Treese also discussed a personal bank account that Ms. Van Treese used for household expenses for the children, and stated that he was not allowed by his wife to write checks on that account.<sup>502</sup> Mr. Van Treese also described some cars he owned that were “replevined” by the bank, including his basic work vehicle and an old Cadillac.<sup>503</sup> He also said the bank replevined a Buick Riviera that he bought through the bank 15 years before.<sup>504</sup>

With regard to the IRS, Mr. Van Treese described a pay-out agreement he had for alleged back taxes. He said: “I pay them 1,025 dollars per month between the first and fifth of each month religiously, and that is still in litigation. I don’t owe them anything, but they say I do. So until that is cleared, I will continue to pay them, and they will someday maybe reimburse me, or I’ll just keep paying until I die.”<sup>505</sup> Unfortunately, as it appears from our discussions with the family accountant, Mr. Van Treese was still paying the IRS at the time he died.<sup>506</sup> Mr. Van Treese described his method for paying: “I hand-carry the cash up there to them every month. I go to the bank downstairs of their office in Oklahoma City, purchase a cashier’s check, go upstairs to their third floor office and personally pay them and get a receipt.”<sup>507</sup> Mr. Van Treese also had a \$250 per month payment agreement with the Oklahoma Employment Security Commission, and he described being behind on the ad valorem taxes for his Weatherford property.<sup>508</sup> Finally, Mr.

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<sup>499</sup> *Id.* at 25:6-23.

<sup>500</sup> *Id.* at 25:19-26:5.

<sup>501</sup> *Id.* at 26:6-8.

<sup>502</sup> *Id.* at 14:23-15:2.

<sup>503</sup> *Id.* at 15:18-23.

<sup>504</sup> *Id.* at 16:7-10.

<sup>505</sup> *Id.* at 20:16-22.

<sup>506</sup> April 2022 Reed Smith Interview of Van Treese’s Personal CPA Dudley Bowdon.

<sup>507</sup> *Estate of J.E. Tankersley*, Hearing on Assets of Barry Van Treese and Donna Van Treese at p. 21:8-12 (March 29, 1993).

<sup>508</sup> *Id.* at 21:13-17, 22:4-8.

Van Treese described how, during the winter months, their “cash flow is almost nil, and then [they] go through the summer months when we bring in our cash flow.”<sup>509</sup> Ms. Van Treese also testified and confirmed what Mr. Van Treese described with respect to her personal checking account for household affairs. She also stated that some of the business money went through that account.<sup>510</sup>

These facts were not presented or even discovered by defense counsel, nor were they turned over by the prosecution to the defense, even though the prosecution relied on Ms. Van Treese to calculate a business shortage that they used as the lynchpin of their motive theory.

Given these business practices, particularly the heavy debt load they carried, and the fact that they operated their business almost exclusively in cash, we do not believe the shortage calculation proffered by the State for 1996 is supported. This is especially the case since there is no backup documentation to verify her calculations. Also, because of the financial issues described by Mr. Van Treese in 1993, it would be necessary to see historic results from the Oklahoma City Best Budget Inn and the other motels to evaluate whether such shortages were just a normal part of their business, particularly given the cash nature of the operation. Indeed, we know from Ms. Van Treese’s year-end summary that the Tulsa Best Budget Inn also had a shortage listed for 1996, and that this shortage was a higher percentage of total business volume than the shortage noted in Oklahoma City. This suggests either a deficiency in the method of accounting utilized by the business, or no issue at all, but in either case not embezzlement by management.

Given all of this information, one can understand why Mr. Van Treese’s brother would conclude that a \$6,101.92 shortage is not something his brother would have been concerned about. This further casts doubt on the credibility of the State’s theory that Mr. Van Treese was going to fire Glossip. According to Mr. Kenneth Van Treese:<sup>511</sup>

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<sup>509</sup> *Id.* at 28:9-11.

<sup>510</sup> *Id.* at 31:9-32:6.

<sup>511</sup> Trial 2 Testimony of K. Van Treese, Vol. 11 at p. 109:2-10.

2 | A. They would have been a concern but not a major issue  
3 | because the amount of the shortages really amounted to  
4 | several hours of revenue over a year period. When you put  
5 | into focus the money that Barry was dealing with, the amount  
6 | of money that was pointed out to me that was at issue was a  
7 | few thousand dollars. And in actuality Barry was dealing  
8 | with several thousand dollars a day and, therefore, it would  
9 | have been an issue but not something that he would have  
10 | spent a lot of time concerning himself with.

Mr. Kenneth Van Treese further stated that the numbers he saw were “really insignificant amounts of money” that “[a]nybody that’s in business understands that a few thousand dollars is going to go away.” He equated worrying about the alleged shortages at Oklahoma City as “crying over spilled milk.”<sup>512</sup> He also was shown Exhibit 71, the year-end report and stated: “if you look at these numbers, the thing that struck me about this deal – or about this particular spreadsheet was if you look, if you break it down on a daily basis and you’re operating these motels 30 days a month, and if you’ve got a \$500 shortage, that’s 12 bucks a day and, you know, that’s just not the kind of thing that I’m going get excited about,” and he said his brother would not get his “blood pressure” up over it either.<sup>513</sup>

This testimony confirms that the alleged shortages on Exhibit 71 were not material, would likely not have upset Mr. Van Treese, could be explained by the cash that Mr. Van Treese did not pick up (the dollar bills and change), and was likely not something Mr. Van Treese was going to fire Glossip over. It does not reflect stealing and it is not a motive for murder.

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<sup>512</sup> *Id.* at 145:20-23; 146:5-10.

<sup>513</sup> *Id.* at 147:7-19.

**f. Mr. and Ms. Van Treese's Actions Towards Glossip Also Undermine The State's Theory That Glossip Was Going To Be Fired For Stealing**

Actions taken towards Glossip, both before and after the murder, are inconsistent with a belief that he was stealing and was going to be fired. First, it is undisputed that Mr. and Ms. Van Treese paid Glossip a bonus every month during 1996, except December, even when the monthly reports showed the purported shortages.<sup>514</sup> Through April 1996, more than half of the yearly shortage that Ms. Van Treese calculated had already occurred.<sup>515</sup> This was before the family issues Ms. Van Treese testified about had started, so if they believed Glossip was stealing, they had all the information needed to fire him during the first half of the year. Second, Mr. Van Treese continued to allow Glossip to hold onto large volumes of cash throughout the year, not requiring Glossip to make bank deposits or do anything else with the money, even though in Tulsa he required the Benders to make daily bank deposits.<sup>516</sup> This shows that Mr. Van Treese trusted Glossip with cash.<sup>517</sup>

It is also puzzling that Mr. Van Treese had to be reminded by Glossip on January 6, 1997 to come to the motel to make payroll and write paychecks to Hooper and Glossip.<sup>518</sup> Had Mr. Van Treese been intending to confront or fire Glossip about the purported embezzlement or other motel issues, he presumably would have had a planned trip to the motel on January 6, 1997 and not needed a reminder to go to the motel to pay employees, including Glossip. The fact that Glossip had to call Mr. Van Treese to ask him to swing by the motel to make payroll tends to indicate there was no plan to go to the motel that day, and by extension no plan to confront Glossip.

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<sup>514</sup> Trial 2 Testimony of D. Van Treese, Vol. 4, at pp. 180:16-182:6

<sup>515</sup> 1996 Best Budget Inn Year-End and Monthly Reports.

<sup>516</sup> Trial 2 Testimony of D. Van Treese Vol. 4 at p. 126:7-12; Trial 2 Testimony of W. Bender, Vol. 8 at p. 58:8-19.

<sup>517</sup> Ms. Van Treese testified that the Tulsa motel did not deposit monies in any bank on a daily basis and that they followed the same business policy as in Oklahoma City. Trial 2 Testimony of D. Van Treese, Vol. 4, 127:4-10. This suggests that Ms. Van Treese was not fully aware of her husband's business practices at this time.

<sup>518</sup> See State's Exhibit 80 showing a call to the Van Treese residence at 5:01 p.m. Glossip informed police that he had to call to remind the Van Treeses about making payroll. January 8, 1997 Police Interrogation of R. Glossip, at p. 9:17-19. "I had to call Donna and ask where Barry was because Billie was sitting there waiting for her paycheck." *Id.* Ms. Van Treese then got ahold of Mr. Van Treese and he soon after arrived at the motel to make payroll, calling his son, Derrick, to confirm the numbers for the paychecks. Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 80:20-81:1.



In addition, even after the murder, they continued to have Glossip stay and work at the motel until he was arrested, and they allowed Wood to continue staying there, even though she assisted Glossip at the motel. Indeed, Glossip was paid for the days he was there after the murder and nobody suggested that he was stealing or was supposed to be fired.<sup>519</sup> In addition, Mr. Kenneth Van Treese testified that Glossip sold a vending machine back to the company. He said that Glossip took money out of the till for the vending machine.<sup>520</sup> Even though Everhart testified that he was going to meet Mr. Van Treese at the motel to confront Glossip on January 6, 1997 for stealing, he testified that, after the murder, he paid Glossip \$100 for an aquarium and that Glossip told him he was “moving on.”<sup>521</sup> As an experienced law enforcement officer, if Everhart really believed Glossip was stealing money and Mr. Van Treese planned to confront him about it right before he was murdered, Everhart would not have purchased property from Glossip to facilitate his “moving on.”

These facts were never clearly presented to the jury to counter the State’s theory that Glossip was stealing money and going to be fired.

#### **XI. Evidence Countering the State’s Disrepair Motive Was Never Presented to the Jury**

The Defense failed to present evidence to counter the State’s assertion that the motel was in poor condition, this was Glossip’s fault, and that Glossip had reason to be concerned about being fired over it. The prosecution argued that Glossip was motivated to kill Mr. Van Treese because Mr. Van Treese would fire Glossip after seeing the disrepair the motel had fallen into during the 6-month period from July 1996 to December 1996. Rather, the evidence shows that Glossip was actually doing what he could to improve the motel. Furthermore, the evidence shows that motels owned by Mr. Van Treese had problems with drugs, prostitution, and crime and that Mr. Van Treese’s management decisions prevented his managers from making improvements. Some accounts from former managers and guests show that Mr. Van Treese at least tolerated this illegal activity.

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<sup>519</sup> Trial 2 Testimony of K. Van Treese, Vol. 11 at p. 130:7-24.

<sup>520</sup> *Id.* at 128:14-129:4.

<sup>521</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at pp. 199:14-200:9.

### A. Evidence Of Glossip Improving The Motel

The following two snippets demonstrate that Glossip's defense counsel failed to highlight Hooper's testimony indicating that Glossip was in fact trying to improve the motel:<sup>522</sup>

Q. That Barry was alive. Tell us about your observations of their relationship and if it stayed the same or if it changed.

A. Well, it seemed like when Rich first started, him and Barry got along very well. He did a really good job. He was doing a lot of maintenance and trying to fix the place up and I couldn't observe any problems going on between him and Barry. But then, again, if there had been a problem

Q. Tell us, because I think we sort of piecemealed it yesterday, tell us why it was that you were so concerned that it was time to talk to Barry about it.

A. Well, prior to that, I had -- in my observation and in my own personal opinion -- had felt like that Rich was doing a good job. He was trying to upgrade the property both cosmetically, but also to upgrade the clientele and I really felt like that he was -- whatever the circumstances, he had the Best Budget at heart.

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<sup>522</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at pp. 15:17-24, 33:12-20.

Hooper clearly believed that Glossip was doing a good job managing the motel and was not the cause of the motel's condition. Defense counsel failed to dig deeper on cross examination to show the jury that Glossip actually, as Hooper put it, "had the Best Budget at heart."

Robert Glass, who remodeled rooms at the motel for Glossip, has further supported Glossip's attempts to manage the motel well. Glass said that it was important to Glossip to make the rooms nicer but that Glossip did not have the resources to work with.<sup>523</sup> According to Glass, Glossip wanted to run the criminal element out of the Best Budget Inn, recalling more than one occasion when he and Glossip called the police to the motel for drug activity.<sup>524</sup> Glass also worked with Glossip at the Continental Motel before the Best Budget Inn.<sup>525</sup>

All of this shows that Glossip was interested in taking care of the motel, but any issues that existed were due to financial constraints imposed on him by Mr. Van Treese. Certainly, the evidence does not reveal that Glossip would have had any concerns about being fired due to the condition of the motel, which is the critical inquiry when assessing the State's motive argument.

#### **B. The Evidence Shows That The Motels Were Known For Illegal Drug Activity**

The jury never heard the evidence showing that the motels owned by Mr. Van Treese were known for illegal drug activity. In one of his reports, Detective Bemo narrates a conversation he had with Harold Wells, a Tulsa police officer.<sup>526</sup> Then Cpl. Wells said that, when he was working in the Narcotics division, he knew Mr. Van Treese very well because Mr. Van Treese frequently cooperated with the police.<sup>527</sup> He said that Mr. Van Treese would always provide a room at his Tulsa motel for the police to work their deals. Former Oklahoma City Police Officer Michael O'Leary stated that the Oklahoma City Best Budget Inn was a constant source of calls for drugs, prostitution, robberies, and auto burglaries, recalling arresting a former high school classmate of his with a chunk of meth.<sup>528</sup>

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<sup>523</sup> K. Christopher Interview of R. Glass at p. 2 (July 21, 2021).

<sup>524</sup> *Id.* at 2

<sup>525</sup> *Id.* at 1.

<sup>526</sup> January 8, 1997 Police Report of B. Bemo.

<sup>527</sup> *Id.*

<sup>528</sup> May 2022 Reed Smith Interview of Former Oklahoma City Police Department Master Sargent Michael O'Leary.

Former managers, employees, and guests of both the Oklahoma City and the Tulsa motels similarly indicated that the motels were afflicted with drugs. Accounts illustrate an environment where drugs were abused and drug related crimes occurred.

- Deborah Cook, a manager of the Tulsa motel for about 1 year in the mid-1990s, stated that there was a lot of illegal drug activity at the motel.<sup>529</sup> Mrs. Cook recalled one night when a women was stabbed at the motel in a drug related incident.<sup>530</sup>
- Natasha Nevills, a manager of the Tulsa motel for 4-6 months in the early 1990s, stated that the motel was full of drugs.<sup>531</sup> Ms. Nevills said that Mr. Van Treese was aware, but did not care, because his only concern was renting as many rooms as possible.<sup>532</sup>
- Christopher Kidd, who managed the Tulsa motel with his ex-wife Natasha Nevills, described the guests at the motel as drug addicts, dangerous criminals, and prostitutes.<sup>533</sup>
- One guest named Darlene McLaughlin who lived at the Oklahoma City motel periodically from 1996 until late 2000, said that it was very dangerous and was full of drug pushers and drug users.<sup>534</sup> On multiple occasions, Ms. McLaughlin was approached and asked if she wanted to score (i.e. buy drugs).<sup>535</sup>
- Tricia Eckhart, who lived at the Oklahoma City motel for about 1.5 years from 1995-1997 and would often clean rooms in exchange for rent and a small cash wage, said there was lots of drug dealing going on at the motel, including by her ex-husband.<sup>536</sup>
- Melissa Wheeler, a frequent guest of the Oklahoma City motel during the 1990s, said that she sold drugs at the motel while she was there.<sup>537</sup>

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<sup>529</sup> K. Christopher Interview of D. Cook at p. 1 (August 2, 2021).

<sup>530</sup> *Id.*

<sup>531</sup> K. Christopher Interview of N. Nevills at p. 2 (November 12, 2018).

<sup>532</sup> *Id.*

<sup>533</sup> K. Christopher Interview of C. Kidd at p. 2 (November 12, 2018).

<sup>534</sup> K. Christopher Interview of D. McLaughlin at p. 2 (September 24, 2018).

<sup>535</sup> *Id.* at 3.

<sup>536</sup> Affidavit of Tricia Eckhart at p. 1 (November 24, 2019).

<sup>537</sup> K. Christopher Interview of Melissa Wheeler and Carol Ann Henson at pp. 1-2 (October 24, 2018).

- Stephanie Garcia, a dancer at the nearby strip club who stayed at the Oklahoma City motel for weeks at a time in the 1990s, described a motel where drugs were widely available and abused.<sup>538</sup> Ms. Garcia said that there were drug dealers at the Oklahoma City motel selling methamphetamine and that many of the guests were prostitutes who used drugs including meth, crack cocaine, and heroin.<sup>539</sup>

### **C. The Evidence Shows The Motels Were Known For Other Illegal Activities**

The Oklahoma City and Tulsa motels were known for other illegal and illicit activities such as prostitution. Multiple accounts indicate that Mr. Van Treese was aware of the prostitution occurring at his motels, but let it go so long as guests were paying for rooms.

- Cook, stated that the police were often called to the Tulsa motel due to prostitution.<sup>540</sup>
- Nevills stated that the Tulsa motel was full of prostitutes and that Mr. Van Treese was aware but did not care.<sup>541</sup>
- Kidd said that many of the guests at the Tulsa motel were prostitutes.<sup>542</sup>
- Roger Franklin, a frequent guest of the Oklahoma City motel in the 1990s, said that there were lots of prostitutes at the motel.<sup>543</sup>

### **D. The Evidence Shows The Motels Were Generally Unsafe And In A State Of Disrepair For Reasons Unrelated To Managers Like Glossip**

The jury was not told that Mr. Van Treese's motels were in disrepair and were unsafe long before Glossip began managing the Oklahoma City Best Budget Inn. Photographs of the motels from the 1990s and accounts from staff and guests show that the rooms were not well kept and were hotspots for crime.

- Kidd said that the rooms were in a constant state of disrepair.<sup>544</sup> Mr. Van Treese put Mr. Kidd in charge of all the repairs, but many of the problems were beyond what Mr.

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<sup>538</sup> March 2022 Reed Smith Interview of S. Garcia.

<sup>539</sup> Affidavit of Stephanie Garcia at p. 3 (June 19, 2017).

<sup>540</sup> K. Christopher Interview of D. Cook at p. 1 (August 2, 2021).

<sup>541</sup> K. Christopher Interview of N. Nevills at p. 2 (November 12, 2018).

<sup>542</sup> K. Christopher Interview of C. Kidd at p. 2 (November 12, 2018).

<sup>543</sup> Q. O'Brien Interview of R. Franklin (August 27, 2016).

<sup>544</sup> K. Christopher Interview of C. Kidd at p. 2 (November 12, 2018).

Kidd was able to fix.<sup>545</sup> Mr. Kidd stated that Tulsa police asked if he and his wife would keep a “warrant book” with photos of persons wanted by the police at the desk of the motel and call the police if someone checked in.<sup>546</sup>

- Nevills stated that she was raped by two men in the laundry room of the Tulsa motel.<sup>547</sup>
- Cook said that the Tulsa motel was not a safe place to live, much less to raise her daughter.<sup>548</sup>
- Melissa Wheeler recalled that someone who she believed to be a manager or maintenance man at the Oklahoma City motel had peep holes in some of the upstairs rooms so he could watch motel guests.<sup>549</sup>
- Terry Cooper, a cell mate of Justin Sneed in Oklahoma County Jail in 1997, described the Oklahoma City Best Budget Inn as a “trap house” and said that people on the streets knew the motel as a place where police would not patrol.<sup>550</sup>

The jury also was not told that Mr. Van Treese’s management style seemingly contributed to the disrepair of his motels. It was said that Mr. Van Treese overworked and underpaid his managers, expected them to make repairs that were beyond their capabilities, and refused to hire help.

- Cook stated that Mr. Van Treese refused to hire a maintenance person or anyone to help with security.<sup>551</sup> If Cook was unable to fix something, then Mr. Van Treese would try to fix it himself.<sup>552</sup>

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<sup>545</sup> *Id.*

<sup>546</sup> *Id.* at 3.

<sup>547</sup> K. Christopher Interview of N. Nevills at p. 3 (November 12, 2018).

<sup>548</sup> K. Christopher Interview of D. Cook at p. 1 (August 2, 2021).

<sup>549</sup> K. Christopher Interview of M. Wheeler and C.A. Henson at p. 2 (October 24, 2018).

<sup>550</sup> May 2022 Reed Smith Interview of Terry Allen Cooper.

<sup>551</sup> K. Christopher Interview of D. Cook at p. 2 (August 2, 2021).

<sup>552</sup> *Id.*

- Nevills reportedly found a mattress covered in blood when cleaning a room.<sup>553</sup> According to Nevills, Mr. Van Treese told her to flip the mattress over and rent the room, ignoring her request to call the police.<sup>554</sup>
- Mr. Van Treese would deduct the cost of a repairman from Chris Kidd's pay, so many of the problems went unfixed.<sup>555</sup>
- Lisa Covalt and her ex-husband Travis both stated that they stopped working at the Oklahoma City motel because they could never leave the motel and did not make enough money.<sup>556</sup>

This evidence would have refuted the State's theory that Glossip caused the crime and disrepair that befell the Oklahoma City Best Budget Inn. The evidence shows that Glossip did not cause these problems, and he would have had no expectation of being fired due to the motel's condition or otherwise.

## **XII. The Jury Never Heard About Mr. Van Treese's Business and Financial Problems Which Provide The Relevant Context To Assess The State's Theories**

The State put at issue Mr. Van Treese's financial dealings by putting forth its motive theories of embezzlement and disrepair. Our investigation has uncovered critical evidence that Mr. Van Treese was experiencing ongoing financial troubles, which put these motive theories into the proper context. Mr. Van Treese owned the following properties according to his testimony from a hearing on assets on March 29, 1993:

- 301 South Council Road, Oklahoma City, OK
- 305 East Main Street, Weatherford, OK
- 623 North Broadway, Weatherford, OK
- 34 South Sheridan Road, Tulsa, OK
- 301 South Council Road, Oklahoma City, OK
- 12010 East 22nd Place, Tulsa, OK

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<sup>553</sup> K. Christopher Interview of N. Nevills at pp. 2-3 (November 12, 2018).

<sup>554</sup> *Id.*

<sup>555</sup> K. Christopher Interview of C. Kidd at p. 2 (November 12, 2018).

<sup>556</sup> K. Christopher Interview of L. Covalt at p. 1 (October 15, 2018); K. Christopher Interview of T. Covalt at p. 3 (October 15, 2018).

- 8 Ketch Creek Place, Lawton, OK<sup>557</sup>

All but one property had two mortgages, and one mortgage on the 305 East Main property in Weatherford was being foreclosed. Mr. Van Treese owed considerable sums for unpaid payroll and unemployment taxes to both the federal government and the state Oklahoma Employment Security Commission. None of this information was presented to the jury. This evidence further shows that Mr. Van Treese likely did not have the money to spend on improvements to his properties, and would likely not have fired Glossip for failing to do renovation work, as Glossip was not to blame for the state of the motel.

**A. Mr. Van Treese Owed Significant Back Taxes To Federal And State Governments Causing Him To Operate In Cash Outside The Banking System**

On January 13, 1992, a foreclosure proceeding was initiated on a mortgage on Mr. Van Treese's motel at 305 East Main Street in Weatherford, Oklahoma.<sup>558</sup> Mr. Van Treese was in default on his mortgage to Real Estate Mortgage for the sum of \$100,944.41.<sup>559</sup> During the course of this proceeding, a great deal of Mr. Van Treese's finances were revealed. In 1993, Mr. Van Treese's creditors held a debtor's hearing where he testified about his finances and manner of doing business. The most critical testimony provided by Mr. Van Treese was that he dealt mostly in cash and avoided using bank accounts where he could because of trouble with the IRS dating back to 1988.

Mr. Van Treese had multiple tax liens from the IRS for unpaid payroll tax and unpaid unemployment tax covering tax periods between 1987 and 1990. The notices from the IRS show that between the years of 1987 and 1990, Mr. Van Treese had accrued considerable sums of unpaid payroll and unemployment taxes.<sup>560</sup> According to the most current notice prepared and executed on February 19, 1991, Mr. Van Treese owed \$88,739.52 in payroll taxes and \$757.76 in

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<sup>557</sup> *Estate of J.E. Tankersley*, Hearing on Assets of Barry Van Treese and Donna Van Treese, pp. 4:9-5:11 (March 29, 1993).

<sup>558</sup> *Estate of J.E. Tankersley v. Barry Van Treese*, c-92-7 Petition (January 13, 1992).

<sup>559</sup> *Id.*

<sup>560</sup> Notice of Federal Tax Lien Under Internal Revenue Laws, October 17, 1989; Notice of Federal Tax Lien Under Internal Revenue Laws, July 17, 1990; Notice of Federal Tax Lien Under Internal Revenue Laws, December 5, 1990; Notice of Federal Tax Lien Under Internal Revenue Laws, February 19, 1991.



unemployment taxes.<sup>561</sup> Mr. Van Treese testified that he signed a pay-out agreement with the IRS for about \$32,000 and paid \$1,025 monthly.<sup>562</sup>

In addition to being delinquent on federal taxes, Mr. Van Treese also testified that he owed about \$6,000 to the Oklahoma Employment Security Commission, for which he was on a payment plan of \$250 per month, owed about \$3,000 in ad valorem taxes on the Weatherford Motel, and had 3 vehicles reposed.<sup>563</sup>

As a result of his debt to the IRS, Mr. Van Treese operated his business in all cash unless otherwise absolutely necessary. The following is an excerpt from Mr. Van Treese's testimony at the asset hearing during his foreclosure proceedings for the Weatherford motel:<sup>564</sup>

Q. Okay. Now, what about your working bank account? Do you keep one bank account for all of these entities that you are managing and own, or how do you do that?

A. Well, that's a good question. Since the -- I was sick and almost died in 1988 and we got upside down with the IRS, we have not hardly had a bank. We've made our payroll with Circle K money orders, et cetera and tried to deal basically on cash basis, which makes it most difficult. We have had a couple of small accounts that we have just out of sheer necessity where they absolutely require a check you know.

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<sup>561</sup> Notice of Federal Tax Lien Under Internal Revenue Laws, February 19, 1991.

<sup>562</sup> *Estate of J.E. Tankersley*, Hearing on Assets of Barry Van Treese and Donna Van Treese, p. 20-21 (March 29, 1993).

<sup>563</sup> *Id.* at 15-16, 20-21.

<sup>564</sup> *Id.* at 13.

The fact that Mr. Van Treese operated in cash due to his IRS issues up until the time of his death was confirmed by his former CPA, Mr. Bowdon. Mr. Bowdon stated, “[Mr. Van Treese] did have a problem with the Internal Revenue Service on payroll taxes . . . [T]he IRS was garnishing his accounts when he didn’t, if he didn’t pay right on time.”<sup>565</sup> Mr. Bowdon added:

[W]e'd filed the quarterly payroll tax reports and sometimes he just didn't have the money to pay it and so it would go into a collection side of the IRS. That's where that Mr. Super came in and seems like maybe Barry tried to keep up with a particular payment plan and then didn't have money on time and once you default on the payment plan with IRS, like at that time it seemed like it's not as bad nowadays, but back then it was just 30 days getting tough, they'll take everything out of your bank account and leave you nothing.<sup>566</sup>

Thus, Mr. Van Treese was motivated to operate in cash to avoid having any bank accounts levied by the IRS. But this evidence was not presented to the jury, depriving them of the complete picture of Mr. Van Treese’s finances, which would have cast serious doubt on the motive theories put forth by the State. This evidence would have helped demonstrate that the problems with the motel were not due to any mismanagement by Glossip but had to do with the financial troubles Mr. Van Treese was experiencing.

#### **B. Mr. Van Treese Had Considerable Mortgage Debt On His Properties**

Mr. Van Treese had accrued considerable debt to various creditors by mortgaging his properties. Below is a table detailing the mortgages that Mr. Van Treese had taken out on his various properties, identifying the mortgage holder and the amounts owed pulled from various mortgage foreclosure documents for the Oklahoma City Best Budget Inn and other his properties.<sup>567</sup>

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<sup>565</sup> April 2022 Reed Smith Interview of Van Treese’s Personal CPA Dudley Bowdon.

<sup>566</sup> *Id.*

<sup>567</sup> *Estate of J.E. Tankersley*, Hearing on Assets of Barry Van Treese and Donna Van Treese at pp. 4-12 (March 29, 1993).

Property	Mortgages	Amount Owed
301 S. Council Road [Best Budget Inn OKC Motel]	(1) Bethany First National Bank (2) J.R. Fulton	(1) \$451,806.42 <sup>568</sup> (2) \$20,000
305 East Main Street, Weatherford, OK [Weatherford Motel]	(1) Real Estate Mortgage (2) First National Bank and Mortgage of Weatherford, OK (3) Thomas Hazelton	(1) \$100,944.41 (2) \$40,359.26 (3) \$28,000
623 North Broadway, Weatherford, OK [duplex house]	(1) Great Southern Savings (2) Continental Mortgage (3) Charles Drury	(1) \$119,000 judgment (reduced to 75,000) (2) Not provided (3) \$140,000
34 South Sheridan Road, Tulsa, OK [Best Budget Inn Tulsa]	(1) Ernest Beadle	(1) \$210,000
12010 East 22 <sup>nd</sup> Place, Tulsa, OK	(1) Bank of Oklahoma Mortgage Company (2) R.B. Sutton	(1) \$12,000 (2) \$87,000
8 Ketch Creek Place, Lawton, OK [Personal Home]	(1) Kislak Mortgage (2) Cash Road	(1) Not provided (2) Not provided

As shown in the table, Mr. Van Treese had multiple mortgages on all but one of his properties, including two mortgages on his personal home, and multiple mortgages with outstanding balances of more than \$100,000. Mr. Van Treese testified that he was behind on all 3 of the mortgages on the 623 North Broadway duplex house, was delinquent on the mortgages

<sup>568</sup> *First National Bank of Bethany v. Donna Van Treese*, cj 97-7425-62, Petition, p. 1-2 (October 17, 1997).

on his personal home, and was behind a payment on the mortgage on the Tulsa Best Budget Inn at 34 South Sheridan Road.<sup>569</sup>

Mr. Van Treese lost the foreclosure case on the Weatherford motel, which would only have worsened his financial situation. Specifically, the court ultimately issued a judgment against Mr. Van Treese in favor of Real Estate Mortgage in the amount of \$100,944.91.<sup>570</sup> The court also issued a judgment against Mr. Van Treese and in favor of First National Bank in the amount of \$38,518.75 in a cross claim asserted by First National Bank.<sup>571</sup> The Weatherford Motel was sold at a foreclosure auction for \$123,000 to First National Bank and Trust Company of Weatherford, OK, another of Mr. Van Treese's mortgagees.<sup>572</sup> The Court issued a deficiency judgment against Mr. and Ms. Van Treese in favor of First National Bank and Trust Company of Weatherford, OK in the amount of \$36,763.82, representing the remaining debt that the proceeds of the foreclosure sale failed to cover.<sup>573</sup>

The jury did not hear about Mr. Van Treese's tax problems or mortgage debt, depriving them of a complete picture of his finances to assess the motive theories put forth by the State. The evidence tends to show a businessman in debt and behind on his taxes, which may explain the \$6,101.90 shortage calculated by Ms. Van Treese for 1996. This evidence also indicates that any state of disrepair facing the motel was not because Glossip failed to do his job, but because there simply was not enough money available to fix any problems. More importantly, there was no evidence (perhaps other than Sneed's testimony) that Glossip had any concerns about the condition of the motel or about Mr. Van Treese being upset about how the motel was being maintained. Instead, the evidence suggests that Glossip was doing what he could with the resources he was provided and there is no reason to suggest that Mr. Van Treese would be upset about that. This analysis therefore demonstrates the lack of support for the State's other motive theory.

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<sup>569</sup> *Estate of J.E. Tankersley*, Hearing on Assets of Barry Van Treese and Donna Van Treese at pp. 27-28 (March 29, 1993).

<sup>570</sup> *Estate of J.E. Tankersley*, Journal Entry of Judgment and Decree of Foreclosure, p. 9-10 (August 21, 1992).

<sup>571</sup> *Id.*

<sup>572</sup> *Estate of J.E. Tankersley*, Order Disbursing Funds (December 22, 1992).

<sup>573</sup> *Estate of J.E. Tankersley*, Deficiency Judgment (February 1, 1993).

### **XIII. Evidence of Cliff Everhart's Lack Of Credibility And Related Criminal Troubles That The Jury Did Not Hear**

The State relied on Everhart for key aspects of its case against Glossip, but our investigation has uncovered significant evidence that undermines Everhart's character and credibility and the jury did not hear this evidence. The State used Everhart's testimony to bolster Sneed's story pinning responsibility for Mr. Van Treese's murder onto Glossip. Specifically, the State used Everhart to support its motive theory and its contention that Glossip intended to flee Oklahoma after the murder.

Everhart testified: (1) that he previously told Mr. Van Treese he believed Glossip was stealing a couple hundred a week from the motel, (2) that he had plans to meet Mr. Van Treese on January 6, 1996 at the motel so they could confront Glossip, and (3) that Glossip had a "liquidation sale" on January 8-9, 1997 so he could flee Oklahoma. One problem is there is no evidence that Everhart told police anything about Glossip stealing from the motel, or that Mr. Van Treese planned to fire Glossip on January 6, 1997. It also is unclear if Everhart told police about a "liquidation sale."

Notably, Everhart was a former police chief of Binger, Oklahoma. Although he resigned under pressure,<sup>574</sup> he still would have known that the above facts, if true, would be important for police conducting a homicide investigation, so his failure to tell police this information alone casts serious doubt on his testimony.

In January 1997, Everhart was employed as a criminal defense investigator for the OIDS capital division. He also hung around the Best Budget Inn motel in Oklahoma City under the guise of being a security officer.<sup>575</sup> His role at the motel, however, never seemed clear. According to Ms. Van Treese, "[h]e was an acquaintance and he would come by and sometimes just drive around for security and – on holidays and weekends."<sup>576</sup> When asked about Everhart being a security guard, Hooper testified, "He was a friend of Barry's. I don't know that he was security –

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<sup>574</sup> Mark A. Hutchison, *Town of Binger Finds Itself Bogged In Political Mire*, *The Oklahoman* (February 11, 1996).

<sup>575</sup> J. Gainey Interview of D. Wood at pp. 4-5, 17 (January 30, 1997).

<sup>576</sup> Trial 2 Testimony of D. Van Treese, Vol. 5 at pp. 143:19-144:2.

he may have acted at times as security.”<sup>577</sup> Hooper also said that on more than one occasion Everhart would get a free room at the motel.<sup>578</sup>

Everhart previously worked with Glossip at the Grand Continental Motel in Oklahoma City and recommended Glossip for the Best Budget Inn manager job.<sup>579</sup> In the last month before the murder, Everhart was observed hanging out with Sneed more frequently.<sup>580</sup>

#### **A. Everhart’s Employment Records Show A Significant Lack Of Candor And Credibility**

In 1991, Everhart began his employment with OIDS.<sup>581</sup> In 1994, Everhart was transferred from investigator in the Capital Post-Conviction Appeals Division to the Trial Capital Division.<sup>582</sup> In this division, Everhart was responsible for investigating defenses for people charged with capital murder, like Glossip. He continued in this division until September 1997.<sup>583</sup>

Everhart’s employment history as an OIDS investigator evidenced a lack of credibility and truthfulness. Throughout his employment, Everhart received numerous negative comments about his character. He was called dishonest and stubborn, and cited for engaging in fabrication, among other things.

An example of this is a 1994 review of Everhart’s performance as an OIDS investigator given by Chief Randy Bauman of the Capital Post-Conviction Division, in which Everhart received the following comments:

- “[Cliff] exhibits character deficiencies including very limited honesty and integrity that, together with other deficiencies mentioned herein, make many division attorneys reluctant to trust his work.”<sup>584</sup>

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<sup>577</sup> Trial 2 Testimony of B. Hooper, Vol. 8 at p. 8:7-10.

<sup>578</sup> *Id.*, p. 8:11-14.

<sup>579</sup> Trial 1 Testimony of C. Everhart, Vol 4 at p. 103:9-11; Trial 2 Testimony of C. Everhart, Vol 11 at pp. 166:22-25, 167: 1-4.

<sup>580</sup> J. Gainey Interview of D. Wood at p. 22 (January 30, 1997).

<sup>581</sup> Oklahoma Indigent Defense System, Appellate Indigent Defender Division, Personnel Action.

<sup>582</sup> Oklahoma Indigent Defense System Office of Executive Director, *Memorandum for Clifford A Everhart* (June 23, 1994).

<sup>583</sup> Ann Moore, Oklahoma Indigent Defense System, *Memorandum* (September 4, 1997).

<sup>584</sup> Mid-Year Informal Review of Cliff Everhart (April 22, 1994).

- “[Cliff] is remarkable in that he rarely, if ever seems to learn from his mistakes/experiences. Instead **he has a strong tendency to assume he is right and stubbornly refuse to adjust his behavior.**”<sup>585</sup>
- “Having **failed to uncover crucial and readily discoverable evidence of innocence in a case he was previously assigned**, Cliff advised superiors that the investigative plan of the case attorney and the new investigator was a ‘waste of time’, because it simply covered items that had been done before . . . . Very quickly, the investigatory uncovered witness in support of the client’s innocence—crucial witnesses who had never been contacted before but were readily available. **If Cliff had been allowed to indirectly obstruct the investigation, this crucial evidence would have been rendered unavailable to the client forever due to the posture of the case.**”<sup>586</sup>
- “[Cliff’s] **denial that he attempted to halt an investigation that led to discovery of an extremely valuable innocence claim is also a complete falsehood.** There is no confusion as to the cases and no doubt that the incident occurred as described in the review.”<sup>587</sup>
- “[Cliff] **is further engaging in fabrication** when he denies statements in the review regarding his involvement (or lack thereof) in in-service training.”<sup>588</sup>
- “As most every supervisor in his agency who has dealt with [Cliff] agrees, **[Cliff’s] performance is unsatisfactory.**”<sup>589</sup>

These comments illustrate the problem with Everhart’s prominent role at Glossip’s trial and would have been highly probative for the jury when assessing Everhart’s credibility.

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<sup>585</sup> *Id.*

<sup>586</sup> *Id.*

<sup>587</sup> Memo from Randy Bauman to Robert Ganstine Regarding Cliff Everhart Performance Review (April 26, 1994).

<sup>588</sup> *Id.*

<sup>589</sup> *Id.*

## **B. Everhart's Records Regarding Conflicts Of Interest And Other Issues Regarding His Professionalism**

Everhart's employment records also illustrate serious conflicts of interest regarding his employment as an OIDS investigator and other related concerns. For example, during his employment as an OIDS investigator, Everhart also worked as the Binger police chief and a Caddo County reserve officer. This double-duty employment sparked a policy change within the OIDS due to the conflicts of interests that potentially could arise.<sup>590</sup> These conflicts of interest were also noticed by the attorneys who worked at OIDS. Attorneys working within the OIDS organization were especially concerned that Everhart may be biased when investigating innocence due to his previous law enforcement history.

In 1995, Everhart received the following comment documented in his performance evaluation.

- **“[D]ue to his involvement with law enforcement, the attorneys in the Division have expressed a concern over conflict of interest which has affected their confidence in his efforts.”<sup>591</sup>**

OIDS ultimately terminated Everhart in 1997, purportedly due to budget cuts.<sup>592</sup> However, even after Everhart's termination, evidence shows that OIDS remained concerned with Everhart's influence and involvement in Glossip's case and the police investigation. Specifically, in 1998, multiple OIDS employees were concerned about what they referred to as the “Cliff Element” of the Glossip case. Recovered documents from within the OIDS organization revealed these concerns:<sup>593</sup>

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<sup>590</sup> Mark A. Hutchison, *Double-Duty Prompts Policy Change, Hard Feelings*, *The Oklahoman* (February 11, 1996)

<sup>591</sup> OIDS Review of Cliff Everhart (November 30, 1995).

<sup>592</sup> Ann Moore, Oklahoma Indigent Defense System, *Memorandum* (September 4, 1997).

<sup>593</sup> August 27, 1998 Memos from Janie Clark to Leeann and Bill.



From: "Janie Clark" <APPELLATE/JANIE>  
Organization: Oklahoma Indigent Defense System  
To: bill  
Date sent: Thu, 27 Aug 1998 16:02:01 CDT  
Subject: gossip update  
Copies to: wyndi

bill, wyndi picked up the trial attorney file for gossip today. she said that the entire file was on one paper sized box and it was only 3/4 of the way filled. that makes me very dubious of the notion that they did a big investigation of cliff and uncovered mountains of information about him. of course, the mere size and quantity of the file does not determine its quality, but i am suspicious of such a scant amount. anyhow, wyndi is going to review the file within the next few weeks, so she may begin determining what records we need to request. at that time we should begin to get an idea of what sort of information about cliff there really is. i will continue to keep you updated on that.

also, wyndi gave the box to norma to bate stamp it and get it all organized. wyndi very wisely told norma not to say anything to anyone if she comes across any pieces of information about cliff in the file.

for all the obvious reasons it would be better to keep this out of the rumor mill here at oids. so wyndi and i are not saying anything about the "cliff element" of this case to anyone other than you, lee ann, and jack (who has been assigned as the second investigator). -  
janie

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IF SHE COMES ACROSS ANY PIECES OF INFORMATION ABOUT CLIFF IN THE FILE.

wyndi and i have not said a word about the cliff element to anyone but i am fearful it will be revealed soon, despite our efforts. kim heinze came into my office this morning and said that kim marks (sigh!) called her. kim marks told kim that she had info on gossip and wanted kim to pass it along to whomever was assigned the case. apparently jack walker is going to be gossip's cell partner. he is excited for gossip's arrival and has begun creating a "care package." jack walker is pretty nosy. i fear gossip will talk to jack and jack will tell kristi, kim heinze, kim marks, scott and randy at the federal office etc..... or the whole thing may leak out even without jack's help because i think kim marks may get to the information first. kim marks also told kim heinze that she has been talking to some people in oklahoma county about gossip's case. according to kim marks, everyone in oklahoma county seems to really like gossip. this indicates to kim marks (so she says) that gossip is really innocent and/or really got screwed by the system. kim marks plans to dig more.

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OIDS Attorney Investigator Wyndi Hobbs explained that there were multiple issues regarding Everhart that were “shady,” including that Everhart claimed he was part owner of the motel, but no one could find any legal record or evidence of this.<sup>594</sup>

Even after Everhart no longer worked at OIDS, multiple individuals observed Everhart meddling in the Glossip investigation. Examples include:

- An interview of Jane Damron, a Best Budget Inn manager after Glossip, notes that Everhart was visiting the motel to ask questions.<sup>595</sup> This would have been when Glossip was being represented by OIDS.

Ms. Damron stated that right after I called her the first time Clif Everhart “dropped in several times and he asked me if anyone had been snooping around asking questions about the murder.” He also told her he could come back to do security any time as he still had an interest in the motel. He said he could sue to get his money back. It was very clear that Ms. Damron is not fond of Mr. Everhart.

- A 1999 interview with Pursley<sup>596</sup> notes that:

When asked about Clif Everhart and Leslie Williams, Kayla replied “they were both there at the crime scene. I saw them. Clif was looking all around for Barry, in the dumpsters and such. He came around her a lot after the murder. “He twists things around. I called the police on him finally. He tried to push me around but I got in his face. I screamed at him. He was asking me what was going on. He threatened me. He came back afterwards and tried to say he was sorry but I told him to get out and don’t come back.”

- In a 2022 interview, Garcia noted that Everhart, Detective Bemo, and other police officers were telling witnesses at the nearby strip club to stop making statements about Mr. Van Treese or the murder.<sup>597</sup>
- OIDS Defense investigator Steve Leedy noted that “he was one of those people that you just don't, you got a bad feeling about you don't know why it is, but you just you don’t want to be around him.”<sup>598</sup>

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<sup>594</sup> May 2022 Reed Smith Interview of W. Hobbs.

<sup>595</sup> M. Dawson Interview of J. Damron at p. 1 (October 7, 1999).

<sup>596</sup> M. Dawson Interview of J. Damron at p. 2 (December 9, 1999).

<sup>597</sup> March 2022 Reed Smith Interview of S. Garcia.

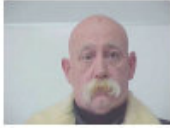
<sup>598</sup> March 2022 Reed Smith Interview of OIDS Investigator S. Leedy.

Defense counsel did not present any evidence regarding these issues, which could have been relevant to the jury's assessment of Everhart's credibility as a key witness.

**C. Everhart's Criminal Activity Including Willful Neglect of Duty And Making False Statements Was Not Provided To The Jury**

**CLIFFORD ALBERT EVERHART, 66 Years Old**

Name: CLIFFORD ALBERT EVERHART	Ma
DOB: XX/XX/1954, Born 66 Years Ago	
Address: RR 2 BOX 202 # K, HINTON, OK 73047-9344 (CANADIAN COUNTY)	Fir Mi
Gender: M	
Hair: GRAY	La
Height: 75	Da
Weight: 200	Ag
Ethnicity: WHITE	Ad
Eyes: HAZEL	He
Is Sex Offender: No	Ett
Source Name: OKLAHOMA DISTRICT COURTS WEBSITE	
Source State: OK	



No evidence of Everhart's criminal activity, including illegally making false statements in his official capacity, was presented to the jury. At the time of the second trial, there were serious charges pending against Everhart that went to his credibility as a witness. These charges included:

Crime Details - 08/27/2003 - OK	
OffenseDescription1: OFFICER GAMBLING Case Number: CF-2003-00046 Classification: FELONY Counts: 1	Charges Filed Date: 08/27/2003 Court: DISTRICT Disposition Date: 09/06/2005

Crime Details - 08/27/2003 - OK	
OffenseDescription1: WILLFUL NEGLECT OF DUTY Case Number: CM-2003-00224 Classification: MISDEMEANOR Counts: 1	Charges Filed Date: 08/27/2003 Court: DISTRICT Disposition Date: 09/06/2005

Crime Details - 08/27/2003 - OK	
OffenseDescription1: PUBLIC OFFICER MAKING FALSE WRITING Case Number: CM-2003-00225 Classification: MISDEMEANOR Counts: 1	Charges Filed Date: 08/27/2003 Court: DISTRICT Disposition Date: 09/06/2005

- **Officer Gambling, a felony, 21 O.S § 978:** While acting in his official capacity as the chief of police for the city of Longdale and in uniform, Everhart received payment on more than one occasion for illegal gambling.<sup>599</sup>
- **Public Officer Making False Writing, a misdemeanor, 21 O.S § 587:** While acting in his official capacity as the chief of police for the city of Longdale, Everhart wrote a letter to the Longdale mayor demanding reimbursement of an automobile battery which he claimed he purchased for \$54.00, which he knew to be false.<sup>600</sup>
- **Willful Neglect of Duty, a misdemeanor, 21 O.S. § 580:** While acting in his official capacity as the chief of police for the city of Longdale, Everhart knowingly and willfully seized a firearm that he had reason to believe was illegally converted to a fully automatic rifle and failed to submit said firearm to the Oklahoma State Bureau of Investigation.<sup>601</sup>

All of these charges were pending against Everhart during Glossip’s second trial, but they were never raised during trial. Everhart entered guilty pleas for each of these offenses in September 2005, after the Glossip trial ended, and Everhart served prison time per Oklahoma Department of Corrections Records (Inmate #514010).

<sup>599</sup> August 27, 2003 Information Sheet for *State of Oklahoma v. Clifford Albert Everhart*, No. CM-2003-46.

<sup>600</sup> August 5, 2003 Information Sheet for *State of Oklahoma v. Clifford Albert Everhart*, No. CM-2003-225.

<sup>601</sup> August 8, 2003 Information Sheet for *State of Oklahoma v. Clifford Albert Everhart*, No. CM-2003-224.

Crime Details - 08/27/2003 - BLAINE, OK

OffenseDescription1: PUBLIC OFFICER MAKING FALSE WRITING Case Number: BLAINECM-03-00225 Crime County: BLAINE Crime Type: MISDEMEANOR	Charges Filed Date: 08/27/2003 Case Type: CM Court: BLAINE Disposition: GUILTY PLEA
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Crime Details - 08/27/2003 - BLAINE, OK

OffenseDescription1: WILLFUL NEGLECT OF DUTY Case Number: BLAINECM-03-00224 Crime County: BLAINE Crime Type: MISDEMEANOR	Charges Filed Date: 08/27/2003 Case Type: MISDEMEANOR Court: BLAINE Disposition: GUILTY PLEA
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Crime Details - 08/27/2003 - BLAINE, OK

OffenseDescription1: OFFICER GAMBLING Case Number: BLAINECF-03-00046 Crime County: BLAINE Crime Type: FELONY	Charges Filed Date: 08/27/2003 Case Type: FELONY Court: BLAINE Disposition: GUILTY PLEA
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The jury did not have information regarding the charges against Everhart to fully assess Everhart’s credibility when he testified against Glossip.

**D. Even Setting Aside The Above Credibility And Performance Issues, Everhart’s Testimony Against Glossip Standing Alone Was Not Credible**

**1. Everhart’s Testimony About Plans To Meet Mr. Van Treese to Confront Glossip About The Motel Is Not Credible As Everhart Never Said Any Of This To The Police**

Everhart testified in the first trial that he was going to meet Mr. Van Treese at the motel on January 6, 1997 to “discuss some problems.”<sup>602</sup> In the second trial, Everhart added that he was supposed to meet Mr. Van Treese at the Oklahoma City motel the night of January 6, 1997, so they could confront Glossip about the problems he had discussed with Mr. Van Treese about the operations of the motel, namely discrepancies in the motel books associated with Glossip “pocketing” money that had persisted through the end of 1996.<sup>603</sup> Everhart testified that he went to the motel on January 6 to meet Mr. Van Treese, but he did not see Mr. Van Treese’s car, so he left.<sup>604</sup>

<sup>602</sup> Trial 1 Testimony of C. Everhart, Vol 4 at p. 104:14-15.

<sup>603</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at pp. 171:21-173:12, 177:5-7.

<sup>604</sup> *Id.*, 206:6-207:21.

The next day, although Everhart became involved in the search for Mr. Van Treese and talked frequently with police, there is no evidence that Everhart mentioned any of this information to any police officers or detectives. When Everhart and the police were searching for Mr. Van Treese on January 7, 1997, he told police, however, that he had not spoken to Mr. Van Treese that day, that Mr. Van Treese was carrying a lot of cash (\$2,855), and that he (Everhart) told the maintenance man to search all the motel rooms.<sup>605</sup> Even after finding Mr. Van Treese in room 102, there still is no record that Everhart told anything to the police about his concerns regarding Glossip and the fact the he planned to meet Mr. Van Treese at the motel the day before to confront him about those concerns.

Thus, despite his extensive law enforcement training and experience, including his work as a police chief, his work as an OIDS investigator, and the security work he performed, Everhart did not mention anything to the police about his and Mr. Van Treese's purported concerns about Glossip. Instead, Everhart waited until testifying at trial to tell his story. As Everhart said himself about his experience in a letter he wrote in 1992 when asking to be considered for a position within the Capital Direct Unit of the OIDS organization, he met "all of the qualifications" for such a position, since he had been "a law enforcement officer, a defense investigator at trial level, and a [sic] appellate investigator in capital cases" and thus was "capable of performing with little supervision."<sup>606</sup>

It raises suspicion, then, that an experienced law enforcement officer presented new details only at trial and not to police during their original investigation. When reviewing Everhart's employment records and prior criminal convictions, which were never presented to the jury, it seems as though Everhart had a history of untruthful and unreliable behavior, which casts into doubt Everhart's conduct and testimony in the Glossip case. Everhart was treated by the police as a fellow officer, rather than as a witness or possible suspect, and was never subject to police or prosecution scrutiny.

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<sup>605</sup> January 7, 1997 Sgt. J. Gibbons Supp. Missing Persons Report; January 8, 1997 Officer Wheat Supp. Missing Persons Report; Trial 2 Testimony of C. Everhart, Vol. 11 at p. 185:8-13.

<sup>606</sup> July 15, 1992 Application for Employment, Oklahoma Indigent Defense System.

Everhart's material omissions to the police, along with the other evidence showing his general lack of credibility, cast serious doubt on the reliability of Everhart's testimony, yet the prosecution relied on it heavily to tie Glossip to the murder. As the prosecution argued in its closings:<sup>607</sup>

You have Cliff Everhart telling you that he found some missing registration cards two weeks before Barry was killed and that he told Barry and that Barry was supposed to meet him on the 6th and they were going to confront this Defendant together, and that if Cliff Everhart had been able to hook up with Barry Van Treese, maybe he could have stopped the killing, but he couldn't. And you had Cliff Everhart telling you that was the plan on January 6th to confront this Defendant.

Those are things that all happened before the killing and they all corroborate, implicate, prove that he's aider, that he's an abettor, that he's a principal. That's what they all prove.

## **2. Everhart's Statements Implying That Glossip Was Intending To Flee After The Murder Are Not Credible**

While Sneed fled the crime scene on January 7, 1997, Glossip stayed. Nevertheless, the State contended that Glossip was planning to leave Oklahoma after the murder, and Everhart's testimony was key to that argument.<sup>608</sup> Specifically, Everhart testified that Glossip was "having a liquidation sale" and that Glossip was selling "everything he owned basically."<sup>609</sup> Everhart further testified that Glossip told him "he was going to be moving on."<sup>610</sup>

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<sup>607</sup> Trial 2 State's Closing Arguments, Vol. 15 at p. 163:2-14.

<sup>608</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at pp. 199-201.

<sup>609</sup> *Id.* at 199:14-18.

<sup>610</sup> *Id.* at 199:21-22.

It is possible Everhart provided this information to police, because they made similar statements to obtain a probable cause arrest warrant for Glossip on January 9, 1997, but there is no evidence confirming he did.<sup>611</sup>

**Suspect gave many convincing statements as to his whereabouts and his contact with the victim prior to him coming up missing. It was learned that the suspect was selling his possessions and was going to leave town.**

If the information did come from Everhart, it is not clear how he understood that “moving on” meant leaving town. In fact, Glossip was under surveillance by police beginning at least at 8:00 a.m. on January 9, 1997, and was never observed by police officers heading out of town, loading his car, packing up suitcases, or any other actions that would indicate he was leaving the state. Rather, Glossip was observed visiting an attorney’s office (David McKenzie), and was arrested after leaving that attorney’s office, not while attempting to flee.<sup>612</sup>

Investigators had been informed the night before and earlier that morning, that Glossip had been trying to sell his things, so he could leave town. Due to hearing this information investigators were assisted by Officers Mauck and Kreith, Fugitive Task Force, and they maintained surveillance on Glossip beginning on the morning of 1/9/97 at 8:00am. Investigators were being advised by Officers Mauck and Krieth on Glossip's movements. Officers Mauck and Krieth had followed Glossip downtown to the building where the attorney, David McKenzie's office was located. After leaving the building and as Glossip and D-Anna Wood were about to enter their vehicle. Officers Mauch and Krieth approached Glossip and asked him to accompany them to the police department. Glossip went with the officers willingly.

Further, Wood confirmed to police that they were “leaving the motel, not leaving town.”<sup>613</sup> Notably, defense counsel did not cross-examine Everhart on any of this information.

<sup>611</sup> Probable Cause Affidavit dated January 9, 1997.

<sup>612</sup> March 18, 1997 Police Report of B. Bemo

<sup>613</sup> January 16, 1997 Police Report of B. Cook.



Moreover, while Everhart testified that Glossip was having a “liquidation sale” and was going to be “moving on,” he also acknowledged giving Glossip a hundred dollars for a fish aquarium.<sup>614</sup>

3 | Q. Okay. And where was that aquarium located?

4 | A. In his apartment, I believe, or in the -- I can't --  
5 | no, it was in the office area. I'm sorry. It was right at  
6 | the apartment door in the office area. He had moved back  
7 | into there.

8 | Q. So you gave him \$100 for it?

9 | A. Yes, ma'am.

If Everhart believed that Glossip was having a “liquidation sale” so he could leave town to evade arrest, it is inconceivable that he would have aided Glossip’s escape by purchasing Glossip’s property. If Everhart really believed Glossip was fleeing, then perhaps Everhart should have been charged for aiding and abetting a fugitive. Of course, that never happened, nor does it seem as though Everhart was ever questioned by the police regarding this.

As stated at the beginning of this section, the State relied on Everhart for key aspects of its case against Glossip. However, there is significant evidence that undermines Everhart’s character and credibility, and the jury never heard this evidence. The issues with Everhart’s testimony further demonstrate the problems involved with Glossip’s trial and the shortcomings on the part of his defense counsel.

#### **XIV. The Jury Was Not Provided With The Correct Framework To Properly Evaluate The Evidence To Determine If There Was Sufficient Corroboration**

Critical instructions were not given to the Glossip jury as required under Oklahoma law for corroboration of Sneed’s testimony. These gaps in jury instructions led to the jury’s fundamental misunderstanding of what constitutes sufficient corroboration under Oklahoma

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<sup>614</sup> Trial 2 Testimony of Cliff Everhart, Vol. 5 at p. 200:3-9.

law. “Under Oklahoma law, the jury *must* be able to eliminate the testimony of an accomplice (or accomplices) and still be able to find some separate evidence that tends to connect the defendant with the commission of the charged offense.”<sup>615</sup> The Glossip jury was not given this precise instruction as required by Oklahoma law, the prosecution’s statements caused further confusion implying that this was optional instead of mandatory, and the jury thus did not engage in the required analysis before finding Glossip guilty of murder. One of the jurors observed that “[t]he jury instructions were very persuasive.”<sup>616</sup>

This raises fundamental concerns as to the jury’s overall evaluation of the evidence and ultimate verdict. The negative impact of these gaps and the jury’s misunderstanding of what constitutes adequate independent corroboration of Sneed’s testimony was reflected in jury interviews. The jurors were unable to separate Sneed’s statements and articulate any independent corroboration as required under Oklahoma law. The jury was thus hindered in its analysis of what constitutes sufficient corroboration because they were not given the correct framework per Oklahoma statutes.

#### **A. Oklahoma’s Statute Provides A Protection Requiring Corroboration Of Accomplice Testimony**

As required by Oklahoma law, where the State relies upon accomplice testimony (as in *State v. Glossip*), the defendant can only be convicted where the State also presents evidence that, “standing alone, tends to link the defendant with the commission of the offense charged.”<sup>617</sup> The State Attorney General’s Office has lauded this corroboration requirement as an additional protection so important in Oklahoma that it is provided even though such a requirement is not even afforded under federal law.<sup>618</sup>

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<sup>615</sup> *Pink v. State*, 104 P.3d 584, 593 (2004).

<sup>616</sup> Interview of Juror No. 5.

<sup>617</sup> OKLA. STAT. tit. 22, § 742.


<sup>618</sup> Oklahoma Assistant Attorney General Seth Branham, Clemency Hearing (October 24, 2014, Transcript part 2 at p. 3). “[T]his is something that we accept as people, as a government, as the right thing to do.” *Id.*

Title 22. Criminal Procedure

 Oklahoma Statutes Citationized

 Title 22. Criminal Procedure

 Chapter 10 - Evidence and Depositions

 Evidence Generally

 Section 742 - Testimony of Accomplice Requires Corroborating Testimony for Conviction

Cite as: O.S. §. \_\_ \_\_

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A conviction cannot be had upon the testimony of an accomplice unless he be corroborated by such other evidence as tends to connect the defendant with the commission of the offense, and the corroboration is not sufficient if it merely show the commission of the offense or the circumstances thereof.

**Historical Data**

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The Oklahoma Court of Criminal Appeals recognized this standard in overturning Glossip’s first trial conviction, explaining that “a conviction cannot be had upon the testimony of an accomplice unless it is ‘corroborated by such other evidence as tends to connect the defendant with the commission of the offense, and the corroboration is not sufficient if it merely shows the commission of the offense or the circumstances thereof.’”<sup>619</sup> The Court also observed in connection with Glossip’s vacated first trial that “[t]he evidence at trial tending to corroborate Sneed’s testimony was extremely weak.”<sup>620</sup> U.S. District Court Judge Heaton echoed this observation regarding Glossip’s second trial, noting that the “State’s case against petitioner hinged on the testimony of one witness, Justin Sneed, petitioner’s accomplice, who received a life sentence in exchange for this testimony. Unlike many cases in which the death penalty has been imposed, the evidence of petitioner’s guilt was not overwhelming.”<sup>621</sup>

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<sup>619</sup> *Glossip v. State*, 2001 OK CR 21 (citing OKLA. STAT. tit. 22, § 742).

<sup>620</sup> *Id.*

<sup>621</sup> *Glossip v. State*, Order, ECF Doc. 66, Case No. 5:08-cv-00326-HE (W.D. OK, Sept. 29, 2010).

**B. Glossip’s Jury Received The Wrong Jury Instruction, Making The Corroboration Analysis Seem Optional And Not Mandatory As Required Per Oklahoma Law**

Glossip’s jury did not properly engage in the required corroboration analysis under Oklahoma law because they were not instructed to do so.<sup>622</sup> Specifically, Glossip’s jury was provided the following jury instruction:<sup>623</sup>

**INSTRUCTION NO. \_\_\_\_\_**

**EVIDENCE - DETERMINING WHEN CORROBORATION  
BY ACCOMPLICE IS SUFFICIENT**

In determining the question as to whether or not the testimony of an accomplice has been corroborated, you may eliminate his testimony entirely and then examine all of the remaining testimony, evidence, facts, and circumstances, and ascertain from such examination whether there is any evidence tending to show the commission of the offense charged and tending to connect the defendant with the offense. If there is, then the testimony of the accomplice is corroborated.

However, the Oklahoma Court of Criminal Appeals made clear in *Pink v. State* (2004) that this jury instruction was **not** consistent with Oklahoma law.<sup>624</sup> In *Pink v. State*, decided mere months after Glossip’s second trial ended (also 2004), the Oklahoma Court of Appeals dictated what proper analysis by the jury needs to occur under Oklahoma law to determine if there is sufficient corroboration of the accomplice’s testimony.<sup>625</sup> Similar to the State alleging Glossip was the mastermind, in *Pink*, the State had alleged that the defendant Pink was the mastermind

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<sup>622</sup> *State v. Glossip*, 2004 Jury Instructions, LWW 29271.

<sup>623</sup> *Id.*

<sup>624</sup> *Pink v. State*, 104 P.3d 584, 592 (2004). In its 2007 denial of Glossip’s appeal, the Court of Criminal Appeals, in a footnote, noted that the *Pink* decision occurred after Glossip’s trial, and that Glossip’s appellate counsel failed to raise any issue regarding this jury instruction. *Glossip v. State*, 157 P.3d 143, 152 n. 5 (Okla. Crim. App. 2007). Without any briefing on this issue, the Court summarily found “that the giving of the pre-*Pink* instruction did not affect the outcome of this trial.” *Id.* The fact that the Court *sua sponte* raised this issue is indicative of (1) how important the Court viewed this issue, and (2) how lacking the defense counsel was in failing to raise it.

<sup>625</sup> *Pink v. State*, 104 P.3d 584 (2004).

of the robbery and other accomplices testified against Pink. The Court of Criminal Appeals explained it “has strictly enforced the section 742 requirement that corroborating evidence link the defendant to the commission of the offense, and not merely to the admitted perpetrators of the offense.”<sup>626</sup> This has been the state of the law in Oklahoma since 1972.<sup>627</sup> There must be independent evidence that connects the defendant with the crime itself.

The Court of Criminal Appeals also stated that “independent evidence merely consistent with the main story is not sufficient to corroborate it if it requires any part of the accomplice’s testimony to make it tend to connect the defendant with the crime.”<sup>628</sup>

See below chart to see the difference in jury instructions:

<b><i>Glossip</i> and <i>Pink</i> Jury Instructions (OUJI-CR- (2d) 9-32 (Supp. 2000))</b>	<b>What Oklahoma Law Actually Requires (OKLA. STAT. tit. 22, § 742)</b>
In determining the question as to whether or not the testimony of an accomplice has been corroborated, you <b>may</b> eliminate that testimony entirely and then examine all of the remaining testimony, evidence, facts, and circumstances, and ascertain from such examination whether there is any evidence tending to show the commission of the offense charged and tending to connect the defendant with the offense. If there is, then the testimony of the accomplice is corroborated.	In determining the question as to whether or not the testimony of an accomplice has been corroborated, you <b>must first</b> set aside his/her testimony entirely and then examine all of the remaining testimony, evidence, facts, and circumstances, and ascertain from such examination whether there is any evidence tending to show the commission of the offense charged and tending to connect the defendant with the offense. If there is, then the testimony of the accomplice is corroborated.

<sup>626</sup> *Id.* at 590.

<sup>627</sup> See, e.g., *Rider v. State*, 1972 OK CR 56, P 9, 494 P.2d 347, 350 (1972) (“The evidence independent of the testimony of the accomplice must tend to connect defendant with the crime itself, and not simply with its perpetrators.”).

<sup>628</sup> *Pink v. State*, 104 P.3d 584, 590 (2004) (citing *Cummings v. State*, 968 P.2d 821 (Okla. Crim. App. 1998)).

The Oklahoma Court of Criminal Appeals reasoned that “[t]he word ‘may’ in the context of this jury instruction (as opposed to language such as ‘must be able to’) could leave the jury with the impression that the analysis described of eliminating the accomplice testimony and then examining the remaining evidence for something that tends to connect the defendant with the commission of the crime is optional, and that perhaps the State’s ‘corroborating’ evidence could be deemed adequate even where it could not pass this test.”<sup>629</sup>

### **C. The Jury Determined There Was Sufficient Corroboration When The Evidence Was Not Adequate Under Oklahoma Law**

Based on jury interviews, this error is exactly what happened in the Glossip trial. For example, one juror recounted that he thought Sneed’s testimony was corroborated because “the version of his events of the night including going and telling Richard that he broke the window and they needed to board it up, it jived with the police statements, location of car, and location of body.”<sup>630</sup> Another juror (Juror 14) detailed what he thought corroborated Sneed’s testimony but, notably, either (1) the source of the listed facts was Sneed himself or (2) the facts only tended to show accessory after the fact and not involvement with the planning or execution of the murder. In particular, Juror 14 listed the following details as corroborative evidence (some of which came only from Sneed): (1) Glossip going into the room after the murder and helping Sneed move the body; (2) Glossip taking money out of Mr. Van Treese’s wallet; (3) Glossip being clearly involved with the body; (4) Glossip fixing the window; (5) Glossip lying about the window; (6) Glossip telling three different stories about the window, as such behavior was an obvious cover up.<sup>631</sup>

Another juror (Juror 8) explained that the corroboration of murder involvement included “breaking the key off in the lock, Glossip not denying going in the motel room, and misleading police.”<sup>632</sup> The source of the breaking the key off in the lock was Sneed.<sup>633</sup> Glossip did not testify in the second trial, so it is unclear what that second item is referring to. The third point of

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<sup>629</sup> *Pink v. State*, 104 P.3d 584, 592 (2004).

<sup>630</sup> March 2022 Reed Smith Interview of Juror 7.

<sup>631</sup> March 2022 Reed Smith Interview of Juror 14.

<sup>632</sup> April 2022 Reed Smith Interview of Juror 8.

<sup>633</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 130:13-16.

“misleading police” only points to after-the-fact behavior by Glossip, rather than involvement with the planning or execution of the murder.

These responses demonstrate that the jurors misunderstood how to properly evaluate under Oklahoma law the required element of corroboration of Sneed’s testimony, and viewed Sneed’s testimony as corroborating itself. The jury also conflated facts which, if true, only pointed to accessory after the fact culpability and not murder involvement under Oklahoma law.<sup>634</sup> Based on the inadequate jury instructions given, the prosecution’s statements downplaying the required analysis of corroboration, and the jurors’ inability to articulate any independent (*i.e.*, non-Sneed testimony) of corroboration of murder involvement, it is apparent that the jury did not have the proper tools to evaluate the evidence, and that the jury concluded the State’s corroborating evidence was adequate when in fact under Oklahoma law it could not pass the test.

#### **D. Prosecutor’s Statements Further Confused The Glossip Jury**

In *Pink v. State*, the Court of Criminal Appeals found the prosecution’s statements in closing arguments made matters worse and further confused the jury.<sup>635</sup> Specifically, the Court of Criminal Appeals found that the prosecutor’s statements “substantially enhanced the possibility that Pink’s jury would misunderstand the adequate corroboration requirement contained in its accomplice instructions, which may likewise help explain the jury’s apparent, but mistaken, decision that adequate corroboration had been established.”<sup>636</sup> The Court further recognized “that the prosecutor’s argument was based upon a reasonable construal of the word

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<sup>634</sup> See, e.g., *Cummings v. State*, 968 P.2d 821, 830 (Okla. Crim. App. 1998) (finding that “[t]he trial record also reveals that Appellant had made a statement to the police in which he admitted to helping drag his sister's body to her pickup and to dumping her body into the lake. While this evidence clearly implicates Appellant as an accessory after the fact, it does not support a finding that he acted as a principal, either by aiding or abetting his sister's murder. As Appellant contends, outside of the testimony of Juanita and Sherry, the evidence only supports a finding that Appellant assisted his wives in lying to the police and in covering up the crime. It does not independently connect him to the actual commission of Judy Mayo's murder.”)

<sup>635</sup> *Pink v. State*, 104 P.3d 584, 592 (2004). “The prosecutor invoked the language of the accomplice instruction quoted above (and the parallel conspiracy instruction) and emphasized that the instruction says ‘you may’ eliminate the testimony of the accomplice/conspirator and then apply the stated test. She continued, ‘It doesn't say you must. It doesn't even say you should. It just says you may.’” *Id.*

<sup>636</sup> *Pink v. State*, 104 P.3d 584, 592-593 (2004).

'may,' which *made her argument particularly dangerous* in the context of this case, because the test articulated is not truly discretionary or optional under our law."<sup>637</sup>

In Glossip's trial, the prosecution similarly downplayed the required corroboration analysis, stating:<sup>638</sup>

Instruction number 13 is the one that tells you that Justin Sneed is most certainly an accomplice.

Last, instruction number 14 tells you that **a way to determine** whether corroboration is sufficient is to eliminate the testimony of the accomplice entirely and then examine all the remaining testimony, evidence, facts and

circumstances, and ascertain whether there is any evidence tending to show the commission of the offense charged and tending to connect the Defendant with the offense. If the answer is yes, then the testimony of the accomplice is corroborated.

"A way to determine" implies it is optional, and is similar to the *Pink* prosecution's "dangerous" statements that confused the *Pink* jury.

The prosecutor in Glossip's case further interjected, "I suggest to you that given his position in the motel, given his actions that morning that his very inconsistency alone tends to connect him to the commission of the homicide of Barry Van Treese."<sup>639</sup> The prosecution further

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<sup>637</sup> *Id.* at 593 (emphasis added).

<sup>638</sup> Trial 2 State's Closing Arguments, Vol. 15 at pp. 90:20-91:5.

<sup>639</sup> Trial 2 State's Closing Arguments, Vol. 15 at p. 91:14-17.



stated that the “behavior of Glossip by itself, his actions and statements corroborate the testimony of Justin Sneed. That . . . Glossip was intimately involved in the planning, carrying out, and cover-up efforts regarding the murder of Barry Van Treese.”<sup>640</sup> However, as discussed above, this is the entirely wrong question to ask under Oklahoma law.<sup>641</sup>

Even if one were to accept the evidence presented at Glossip’s trial as true, it is, at most, tending to demonstrate Glossip as an accessory after the fact. Under Oklahoma law, “evidence implicating a defendant as an ‘accessory after the fact’ – through his actions of helping dispose of the victim’s body, lying to the police, and attempting to conceal a murder that he had directed others to commit – is not adequate to ‘independently connect him to the actual commission of [the] murder,’ under Oklahoma’s accommodation requirement.”<sup>642</sup> The Court of Criminal Appeals in *Cummings v. State* found that the defendant’s admission of dragging and dumping the victim’s body was not enough to corroborate the accomplice testimony and support a murder charge, only accessory after the fact.<sup>643</sup> If dragging the body is not enough under Oklahoma law to prove murder, Glossip’s hanging Plexiglass over a broken window, his failure to check room 102, or his failure tell the police to check room 102 cannot be sufficient to connect him to the murder.

The Oklahoma Court of Criminal Appeals held in *Pink v. State* that evidence regarding Pink’s knowledge about how much money the victim would have been carrying on the night of the robbery was inadequate corroborating evidence because it did not tend to connect Pink to the robbery, absent the testimony of the accomplice.<sup>644</sup> The source of the corroborating fact is critical under Oklahoma law. Even the most important corroborating evidence determined by the Court of Criminal Appeals in Glossip’s case, the money Glossip had when he was arrested,

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<sup>640</sup> *Id.* at 97:14-18.

<sup>641</sup> The jury was also not provided any flight or consciousness of guilt jury instructions. This additional failure caused the jury to conflate behavior after the fact with murder involvement and essentially eviscerated Oklahoma’s statutory protection that exists when the State is relying on accomplice testimony.

<sup>642</sup> *Glossip v. State*, 157 P. 3d 143 (Okla. Crim. App. 2007), at 172, dissenting opinion, citing *Cummings v. State*, 968 P.2d 821 (Okla. Crim. App. 1998), at 830.

<sup>643</sup> *Cummings v. State*, 968 P.2d 821, 830 (Okla. Crim. App. 1998).

<sup>644</sup> *Pink v. State*, 104 P.3d 584, 591-92 (2004).

only has some importance because of Sneed's testimony that he split money with Glossip. If you take away that testimony, having money by itself is not an incriminating fact.

Based on Oklahoma law and the juror interviews, the Glossip jury was presented with a wholly inadequate framework to properly evaluate the evidence. These critical instructions requiring the jury to conduct an analysis of the corroborative facts were not given to the jury and materially prevented it from understanding the evidence the State presented. Without the proper framework, the jury misunderstood what could constitute sufficient corroboration as required under Oklahoma law. This lack of understanding by the jury and non-compliance with Oklahoma's statutory requirement for corroboration of accomplice testimony raises fundamental concerns as to Glossip's murder conviction.

#### **XV. The State Had Flimsy Evidence Of Corroboration To Support A Murder Conviction**

The State asserted that, even though Glossip did not swing the bat or get his hands dirty during the murder, there was "credible and sufficient evidence that he helped plan it, he helped cover it up, and took the proceeds from it, and that's clearly enough under the instructions [the jury] heard."<sup>645</sup> However, an analysis of the State's "corroboration" evidence reveals that it was flimsy, at best, and only shows support for a possible accessory after the fact charge. The jury was allowed to assume that if someone appears to have acted as an accessory after the fact, they are automatically guilty of murder, without more. This is contrary to Oklahoma law and such a conclusion would both conflate murder with accessory after the fact and, essentially, nullify the accessory after the fact offense.<sup>646</sup>

One of the prosecutors later conceded that Glossip's January 9, 1997 admission to police that Sneed told him he killed Mr. Van Treese and Glossip's after the fact behavior amounted to accessory after the fact.<sup>647</sup>

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<sup>645</sup> Trial 2 State's Closing, Vol. 15 at p. 97:19-24.

<sup>646</sup> *Cummings v. State*, 968 P.2d 821 (Okla. Crim. App. 1998).

<sup>647</sup> Radical Media Interview with G. Ackley, at p. 36 (June 23, 2016).

	KEVIN:	Um, and then subsequently, um, he he then told more of the story that Justin Sneed had, um...you know had told him that he murdered, um, Barry Van Treese
	GARY ACKLEY:	Mmhmm
10:27	KEVIN:	So, so, um, legally, what does that...what kind of bind does that put him in and...do you know what I mean?
	GARY ACKLEY:	Yes. What what he had done, in effect, by admitting knowledge of the death and lying to the police and repairing the window, and taping the shower curtain over the window and all that—cleaning up, if you will, was he had confessed to the felony crim of accessory to murder.
	KEVIN:	Right, he, so he already...
	GARY ACKLEY:	He'd confessed to that. And and that's very common.

The prosecutor also admitted that the State's case was not a strong one against Glossip and the ball just bounced in their favor:<sup>648</sup>

	KEVIN:	Or no no, or just, but in general, the...
	GARY ACKLEY:	I think the specifics about the murder plot came from Mr. Sneed entirely, the way I remember it.
	KEVIN:	Is it hard to...I mean, this is, this is a guy with trouble, and he's a 19 year old kid.
	GARY ACKLEY:	Yeah!
03:58	KEVIN:	I mean is it hard to build a case using someone that kind of shady?
	GARY ACKLEY:	Yeah. And, you know, I remind you we offered him life without parole. And the family blessed that offer. There was a lot up in the air about this case, and what ended up happening was we got a fantastic juror, jury... Lemme say that again: we got a fantastic jury. The evidence went beautifully.
04:30	GARY ACKLEY:	And, you know, sometimes the ball bounces your way and sometime sit doesn't, and the case just went beautifully for the state and it was the right kind of evidence for that jury, and they wholeheartedly accepted the state's theory of the case.

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<sup>648</sup> Id. at 34.

**The State’s Categories of “Corroboration”**

The State presented purported corroboration evidence of Sneed’s testimony that fit into five categories. These included: (1) actively concealing the murder, (2) proceeds from the murder, (3) stated intent to flee, (4) motive, and (5) control over Sneed. Significant evidence collected by the investigation reveal the weakness of this “corroborative” evidence. Examples are provided below and a more detailed analysis is provided in Appendix 4:

**1. Actively Concealing the Murder**

State’s Claim <sup>649</sup>	RS Investigation Findings
<p>Gossip told Jackie Williams, a housekeeper at the motel, not to clean any downstairs rooms, which would include room 102.<sup>650</sup> Williams had never before been given that type of instruction.<sup>651</sup></p>	<p>Williams told police that Sneed “made a point of telling her to clean the upstairs rooms only, that he would clean the downstairs rooms.”<sup>652</sup> Williams did not change or correct her statement until May 2004, when speaking with prosecutor Gary Ackley.<sup>653</sup> Williams then claimed that Gossip, not Sneed, gave her the instruction and that she “misspoke” to police.<sup>654</sup> It should be noted that Williams only worked at the motel for one month prior to murder; limited sample size and understanding of motel operating procedure.</p> <p>Even assuming the truth of her 2004 statement, this evidence would, at most, support a charge of accessory after the fact, and does not indicate or support a first degree murder charge.</p>

<sup>649</sup> The claims contained in this column are verbatim statements from the State’s Clemency briefing. The citations also mirror those used by the State.

<sup>650</sup> Trial 2 Testimony of J. Williams, Vol. 8 at p. 122.

<sup>651</sup> October 24, 2014 State’s Clemency Packet for R. Gossip at p. 25; Trial 2 Testimony J. Williams, Vol. 8 at p. 123.

<sup>652</sup> January 8, 1997 Police Report of B. Weaver at p. 2.

<sup>653</sup> G. Ackley Interview of J. William’s Daughter (May 11, 2004).

<sup>654</sup> *Id.*

## 2. Proceeds from the Murder

State's Claim	RS Investigation Findings
Glossip admitted to Detective Bemo in the second interview that he gave Mr. Van Treese approximately \$4,000.00 to \$4,500.00 in motel receipts, all in cash and traveler's checks, in the motel office the night before the murder. <sup>655</sup> Billye Hooper testified that motel records established that Mr. Van Treese picked up approximately \$3,500.00 to \$4,000.00 in motel receipts from Glossip the night before the murder. <sup>656</sup>	The evidence establishes that Mr. Van Treese picked up approximately \$2,800.00 in the motel office the night before the murder. <sup>657</sup> Glossip providing large sums of cash to Mr. Van Treese is inconsistent with accusations of embezzlement. Eight different witnesses (Hooper, Wood, Everhart, Bender, Covalt, Kidd, Brown, and Eckhart) spoke or testified to the fact that Mr. Van Treese was known to carry large amounts of cash. <sup>658</sup>

## 3. Stated Intent to Flee

State's Claim	RS Investigation Findings
After his first interview with detectives, Glossip began selling off his personal property to people at the motel. Glossip basically sold everything he owned. Cliff Everhart described this as "a liquidation sale." <sup>659</sup> Glossip sold his furniture, a big screen television, an aquarium and some vending machines located at his manager's apartment at the motel. <sup>660</sup> Glossip told Everhart that "he was going to be moving on." <sup>661</sup> When	Glossip was under police surveillance at 8 a.m. on January 9 <sup>th</sup> hours before his 12:30 pm polygraph was scheduled to take place. <sup>663</sup> Police observed Glossip visiting Oklahoma criminal defense attorney David McKenzie's office during which McKenzie called the police station and advised Detective Cook that Glossip

<sup>655</sup> Trial 2, Vol. 15 at p. 127; State's Exhibit 2; Court's Exhibit 4 at pp. 4-5.

<sup>656</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 28; Trial 2 Testimony of B. Hooper, Vol. 7 at p. 77.

<sup>657</sup> January 9, 1997 Police Report of W. Cook at p. 1; see Section XVIII.A.4.b. for individuals who knew that Mr. Van Treese carried large amounts of cash on him.

<sup>658</sup> January 8, 1997 Police Report of W. Cook at p. 1; January 7, 1997 Gibbons Supplemental Missing Person Report at p. 2; April 2022 Reed Smith Interview of William Bender; K. Christopher Interview of L. Covalt at p. 2 (October 15, 2018); K. Christopher Interview of C. Kidd at p. 4 (November 12, 2018); January 7, 1997 Cave Report at p. 1.; Affidavit of Tricia Eckhart (Nov. 24, 2019).

<sup>659</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at p. 199:14.

<sup>660</sup> *Id.* at pp. 199:25-201:1.

<sup>661</sup> *Id.* at 199:22.

<sup>663</sup> January 9, 1997 Police Report of B. Bemo.

he missed a previously scheduled meeting with homicide detectives on January 9, 1997, police intercepted Glossip and took him downtown to meet with detectives.<sup>662</sup>

per his advice was not taking the polygraph.<sup>664</sup> When exiting the attorney’s office, police confronted him.<sup>665</sup> Glossip willingly went with Officers Mauck and Krieth when they confronted him at his lawyer’s office.<sup>666</sup> At the time of the confrontation, Glossip was in Oklahoma City, over 100 miles away from the nearest state border. D-Anna also stated that the couple was intending to leave the motel, but not town.<sup>667</sup> Glossip’s girlfriend D-Anna Wood stated that the furniture and vending machine sales were to help Glossip pay for his attorney.<sup>668</sup>

#### 4. Motive

State’s Claim	RS Investigation Findings
<p>Mr. Van Treese was going to confront Glossip on January 6th or 7th about shortages on the motel books that had persisted through the end of 1996. Cliff Everhart testified he was supposed to meet Van Treese at the Oklahoma City motel on the night of January 6th so they could confront Glossip about these shortages.<sup>669</sup> Everhart had previously told Mr. Van Treese he believed Glossip “was probably pocketing a couple</p>	<p>Despite being a trained law enforcement officer and OIDS defense investigator for capital death penalty cases, Everhart failed to mention this at all to the police during the search for Mr. Van Treese or after discovery of his body. The purpose of Mr. Van Treese’s impromptu trip to the OKC motel was to make payroll and pay employees Hooper and Glossip.<sup>671</sup> Hooper was waiting for her check on</p>

<sup>662</sup> October 24, 2014 State’s Clemency Packet for R. Glossip at p. 15.

<sup>664</sup> March 18, 1997 Police Report of B. Bemo at p. 2.

<sup>665</sup> In a hearing prior to the first trial, the court expressed concern with the fact that the police proceeded to interrogate Glossip after receiving indication by phone that Glossip may be represented by counsel (David McKenzie). See Jackson Denno Hearing Testimony of B. Bemo at pp. 27-29.

<sup>666</sup> January 10, 1997 Police Report of B. Cook at p. 1.

<sup>667</sup> State’s Exhibit 87.

<sup>668</sup> Affidavit of D-Anna Wood (Feb. 7, 2001); L. Cooper Interview of with D. Wood at p. 6 (February 12, 2001).

<sup>669</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at pp. 172-173, 177, 201.

<sup>671</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at pp. 52:15-53:13.

State's Claim	RS Investigation Findings
<p>hundred a week extra" from the motel cash receipts during the last two or three months of 1996.<sup>670</sup></p>	<p>January 6, 1997 and had not been paid for multiple days.<sup>672</sup> Officer Tim Brown testified that "he never heard anything like that" when asked "did you ever come across any information that Mr. Van Treese was going to fire Richard Glossip?"<sup>673</sup></p>

### 5. Control over Sneed

State's Claim	RS Investigation Findings
<p>Cliff Everhart testified that Sneed was Glossip's "puppet" and that Sneed "was not self-motivated. [Glossip] told him everything to do. [Glossip] would tell him to do this, he'd do it . . . If he needed something, he'd come to [Glossip]."<sup>674</sup></p>	<p>Everhart did not share these facts with the police the day of the murder or after the murder despite numerous interactions with the police. Everhart instructed Sneed to check the rooms and Sneed obeyed, yet nobody claims Sneed to be Everhart's puppet.<sup>675</sup> D-Anna Wood stated in a conversation with Jim Gainey that Sneed began to hang out with Everhart before the murder.<sup>676</sup> Additionally, Wood stated to the police that "Justin spent a lot of time at their place with Rich, but near the end, Justin and Rich pretty much went their own ways.<sup>677</sup> Sneed was known to reject authority and got into trouble frequently while</p>

<sup>670</sup> October 24, 2014 State's Clemency Packet for R. Glossip at 29; Trial 2 Testimony of C. Everhart, Vol. 11 at p. 172-173.

<sup>672</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at pp. 79:19-80:7; State's Exhibit 5.

<sup>673</sup> J. Sneed Preliminary Hearing Testimony of T. Brown at p. 13; March 2022 Reed Smith Interview of T. Brown. Ms. Van Treese also testified that her husband was going to confront Glossip about the shortages on January 6, but she too never told this to the police as discussed above.

<sup>674</sup> January 8, 1997 Police Report of B. Cook at pp. 32-33; Trial 2 Testimony of C. Everhart, Vol. 11 at p. 185.

<sup>675</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at p. 185:4-25.

<sup>676</sup> J. Gainey Interview of D. Wood at p. 22 (January 30, 1997).

<sup>677</sup> January 8, 1997 Police Report of B. Cook at p. 1.

	growing up. <sup>678</sup> Sneed was also known as a manipulative guy and bully type in school who liked to fight. <sup>679</sup> See Section XVIII. for Sneed’s violent and criminal record.
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**XVI. Unreliable And Inappropriate Hearsay And Opinion Testimony Infected The Case**

Presumably in an effort to compensate for the lack of evidence linking Glossip to the murder, the State presented unreliable and improper hearsay and opinion testimony masquerading as credible evidence of corroboration.

**A. William Bender Testified About Unreliable Hearsay Statements Allegedly Made To Him By Mr. Van Treese**

William Bender’s testimony was particularly unreliable. Bender was allowed to testify to multiple hearsay statements from Mr. Van Treese under the guise of an inapplicable hearsay exception. Under Oklahoma law, a statement is hearsay, and therefore inadmissible, if it is a statement “other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.”<sup>680</sup> Hearsay evidence is considered particularly unreliable where the individual making the statement is not available because it cannot be challenged by the opposing party through cross-examination. One exception to this rule is when the availability of the declarant is immaterial.<sup>681</sup> There are certain exceptions to the hearsay rule where such evidence is allowed because the conditions under which the statements were made give them a certain level of reliability.

A “present sense impression” is an example of this. A “present sense impression” is an out of court statement where the declarant is “describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.”<sup>682</sup> Because the statement was made while the declarant was perceiving something, it is considered

<sup>678</sup> Justin Sneed Competency Evaluation (July 1, 1997).

<sup>679</sup> Declaration of Jamie Spann (Feb. 7, 2018).

<sup>680</sup> OKLA. STAT. tit. 12, §§ 2801-02.

<sup>681</sup> OKLA. STAT. tit. 12, § 2803.

<sup>682</sup> OKLA. STAT. tit. 12, § 2803(1).



to have a higher degree of reliability. For this exception to apply, the statement must: (1) describe the perception of an event or condition, (2) describe or explain the event or condition, or (3) happen at the time of, or immediately after, the event or condition.<sup>683</sup> “The underlying basis for this exception to the hearsay rule is that the substantial contemporaneity of the event and the making of the statement render it unlikely that the declarant has deliberately or consciously fabricated the statement.”<sup>684</sup>

The trial court found that this hearsay exception applied and allowed into evidence all of Bender’s testimony as to what he was told by Mr. Van Treese. The court found that, because Bender testified that Mr. Van Treese was looking at some documents at the time he was relaying information to Bender, all of Mr. Van Treese’s statements could come into evidence. The court stated, “If . . . the victim was looking at records and showing records to this witness at the same time they were talking about them, that is a present sense impression.”<sup>685</sup>

But Bender’s testimony was not limited to what Mr. Van Treese was describing about the documents; Bender was allowed to testify to a wide range of comments purporting to come from Mr. Van Treese about his earlier visit to the Best Budget Inn in Oklahoma City, how the business was being operated, and what he planned to do when he got back to Oklahoma City, among other things.<sup>686</sup> For example, Bender was allowed to testify about what Mr. Van Treese purportedly told him he observed when he was in Oklahoma City hours earlier and what he allegedly said to Glossip.<sup>687</sup>

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<sup>683</sup> § 30.03. Contemporaneous statements—Present sense impression, 2 Okla. Prac., Okla. Evidence § 30.03 (2d ed.).

<sup>684</sup> *Id.*

<sup>685</sup> *Id.*

<sup>686</sup> *See, e.g.*, Trial 2 Testimony of D. Bender, Vol. 12 at pp. 81:1 -82:22

<sup>687</sup> Trial 2 Testimony of D. Bender, Vol. 12 at p. 82:13-21.

13 Q. Okay. Did he make any statements to you about what his  
14 intentions were because of the condition he found the  
15 records at the Oklahoma City motel?  
16 A. Yes, ma'am, he said he had given, I believe his name  
17 was Rich, the matter of time it took for him to get to Tulsa  
18 and back to Tulsa to come up with the weekend's receipts  
19 that were missing and if he came up with that, he was going  
20 to give him another week to come up with the registration  
21 cards and get all the year-end receipts together.  
22 Q. Give him that amount of time or what, did he tell you?  
23 A. He was going to call the police.

Statements like this and others made by Bender regarding what Mr. Van Treese said to him do not qualify as present sense impressions under Oklahoma law.<sup>688</sup> The Defense should have been better prepared to object to this evidence, and certainly should have raised the issue on appeal. There was no ability for the Defense to cross-examine Bender about these purported statements, as the person actually speaking was not present. Such testimony was unreliable hearsay that clearly impacted the jury and should not have been allowed in.<sup>689</sup>

#### **B. Witnesses Improperly Opined That Sneed Would Not Have Killed Mr. Van Treese By Himself And Would Have Killed Mr. Van Treese For Glossip**

The State had several witnesses provide speculative and unreliable opinions as to their theories about what happened in this case. Glossip's defense attorneys inexplicably failed to object to this testimony. The most glaring examples are witnesses who were allowed to opine on Glossip's guilt.

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<sup>688</sup> See *Reeves v. State*, 1991 OK CR 101, 818 P.2d 495, 503 (1991) ("We find that it was hearsay, properly admitted under 12 O.S.1981, § 2803(1), "a statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter").

<sup>689</sup> For a complete discussion as to why the purported statements Mr. Van Treese made to Bender were unreliable (because they were categorically incorrect), see Section X.B.1.c. of this Report discussing the flaws in the State's motive theory.

The prosecution cited this testimony as evidence corroborating Sneed's testimony that he could not have done the murder without Glossip telling him what to do. The prosecution went so far as to describe the evidence as some sort of "study" comparing the two personalities of these individuals, as if they were presenting a scientific analysis when, in reality, they were presenting the opinions of lay witnesses without any credentials to provide such opinions:<sup>690</sup>

Another piece of corroboration is this study that you've heard, this conversation you've heard about the comparison of the personalities of these two men, Justin Sneed and Richard Glossip. You've heard from people that knew them and people that spent a lot of time with them that Richard Glossip was the boss and that he gave instructions to Justin Sneed, that Justin Sneed was the kind of guy that needed to be told what to do.

Giving such heightened importance to evidence that lacked substance or foundation allowed the prosecution to persuade the jury to convict Glossip based on unreliable opinion and conjecture, rather than actual facts. This testimony should not have been allowed as a substitute for real evidence, and defense counsel was ineffective in addressing it.

For example, Pursley testified that, in her opinion, Sneed could not have killed Mr. Van Treese on his own and he would have done this for Glossip.<sup>691</sup>

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<sup>690</sup> Trial 2 State's Closing, Vol. 15 at p. 94: 10-17.

<sup>691</sup> Trial 2 Testimony of K. Pursley, Vol. 9 at p. 103:2-20.

A. Right.

Q. Okay. Ma'am, now that you've had the seven years to reflect and now that you know what you thought and what he did, has your opinion changed from what you told us earlier that Justin Sneed would not have done this alone?

A. No.

Q. You still believe that even though now you know he did it?

A. Right.

Q. Has your opinion changed, now that you know everything, from what you told us earlier that Justin Sneed would not have done anything that would have hurt Richard Glossip?

A. No.

Q. And has your opinion changed, now that you know everything, from what you told us earlier that Justin Sneed would have done this if Richard Glossip had asked him to or told him to?

A. No, my opinion hasn't changed.

Q. That's still what you believe?

A. Yes.

Hooper also opined on Glossip's guilt:<sup>692</sup>

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<sup>692</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 34:7-25.

Q. (BY MS. SMOTHERMON) Ma'am, I want to ask you about your opinion based on your knowledge of the parties and of Justin Sneed and Richard Glossip and the relationship between them. What is your opinion about, if you have one, about whether or not Justin Sneed would have ever done anything like murder Barry Van Treese without first consulting Richard Glossip?

A. In my opinion, Justin would not have murdered Barry Van Treese, I don't believe because, for one, he didn't know the man hardly at all. He probably had no -- very few comments even made together and I wouldn't seen, in my opinion, why he would have a reason to do such a violent act to someone that he hardly knew.

Q. And my question was: What's your opinion about whether or not he would have done it without consulting Richard Glossip?

A. I do not believe he would have done it acting on his own volition because he didn't know Barry that well.

Such evidence should never have been admitted. It is improper under Oklahoma law for a witness to provide a personal opinion as to a defendant's guilt. These are, effectively, the opinions provided by Pursley and Hooper. Both witnesses said that Sneed would not have committed the murder on his own. Even more, Pursley further opined that Sneed only would have killed Mr. Van Treese if asked to do so by Glossip.<sup>693</sup> Of course, neither Pursley nor Hooper possessed any credentials to be able opine as to an individual's propensity to kill on his own, or whether he could be influenced to kill at the behest of another. These highly prejudicial and unreliable statements likely influenced the jury to convict Glossip.

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<sup>693</sup> See *McCarty v. State*, 1988 OK CR 271, 765 P. 2d 1215, 1218 (Okla. Crim. App. 1988).

## **XVII. The Prosecution’s Distortion Of The Evidence**

Due to its weak case against Glossip, the prosecution seemed to distort significant evidence to fit its case theory. Statements made to police were either changed in full or greatly expanded on in the second trial. As Judge Gray (who recommended that Glossip’s first trial should be vacated and presided over the second trial) explained, “[I]t cannot be trial strategy to misstate the facts to the judge and jury.”<sup>694</sup> Yet, in the face of varying and expanding statements made by witnesses, the prosecution did not appear skeptical at all of the significant changes in several witnesses’ testimony, and instead attributed it to superior questioning skills. Assistant District Attorney Smothermon explained to the jury, “The only thing they can point to is the fact that some of the witnesses told you more than they had ever told anyone before. Well, that’s right on some of these witnesses. I’m not going to apologize for asking more questions than anybody else did before because, you know, that’s me, I’m a questioner.”<sup>695</sup> This, however, is a misleading characterization of the distortion of evidence by the State. It also is a failure of defense counsel to bring out these distortions clearly for the jury.

Some examples of this distortion include:

- 1. Jackie Williams: Changed testimony regarding the person who told her to clean the downstairs rooms on January 7, 1997 from Sneed to Glossip**
  - Statements to Police on January 8, 1997: Williams stated that, when she saw Sneed that morning, Sneed made a point of telling her to clean the upstairs rooms only and that he would clean the downstairs room. She stated that he had never done that before.<sup>696</sup> Williams further stated that

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<sup>694</sup> *Glossip v. State*, Findings of Fact and Conclusions of Law After Evidentiary Hearing On Remand From the Court of Criminal Appeals, March 12, 2001, at p. 9. “The United States Attorney is the representative not of an ordinary party to a controversy, but of sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor – indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.” *Berger v. United States*, 295 U.S. 78, 88 (1935).

<sup>695</sup> Trial 2, State’s Closing, Vol. 15 at pp. 153:21-154:2.

<sup>696</sup> January 8, 1997 Police Report of B. Weaver at p. 1.

she cleaned all of the upstairs rooms on Tuesday, January 7, 1997 and that she did not clean any of the downstairs rooms that day. She also stated that she assumed Mr. Sneed had done all of the downstairs rooms as he had said he was going to do.<sup>697</sup>

- Prosecution Interview on May 11, 2004: “Jackie Williams told me last night that she feels she misspoke to the police as reported in her interview -- she feels that it was [Glossip], not Sneed, who told her not to clean the downstairs rooms.”<sup>698</sup>
- Testimony in Trial 2: Williams testified that Glossip “had told [her] to [clean] the upstairs only, not the downstairs.”<sup>699</sup> Williams testified that “later on” she saw Sneed and “he just said he was going to do the downstairs.”<sup>700</sup> She then stated that “[Glossip] just told [her] to do the upstairs.”<sup>701</sup> Williams testified that she was not told to clean room 102 that day.<sup>702</sup> On cross examination, Williams stated that she told the police that it was Sneed who told her to clean the rooms upstairs, but she was “so in shock, [she] didn’t know what was happening” around her.<sup>703</sup> She agreed, however, that her memory would likely be better back when she spoke to police than it was at trial.<sup>704</sup>

## **2. Kenneth Van Treese: Discovery of hacksaw raised for first time at trial**

- No police report documenting any search of room 112, finding a hacksaw, or Kenneth Van Treese finding a hacksaw onsite at the motel.
- Direct Testimony in Trial: Kenneth Van Treese did not mention finding or seeing any hacksaw at the Best Budget Inn.

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<sup>697</sup> January 8, 1997 Police Report of B. Weaver at p. 2.

<sup>698</sup> Assistant District Attorney G. Ackley’s Notes, May 11, 2004 at p. 1.

<sup>699</sup> Trial 2 Testimony of J. Williams, Vol. 8 at p. 122:12-25.

<sup>700</sup> *Id.* at 123:7-12.

<sup>701</sup> *Id.* at 124:1-6.

<sup>702</sup> *Id.* at 124:20-22

<sup>703</sup> *Id.* at 134:11-18.

<sup>704</sup> *Id.* at 135:1-4.

- Rebuttal Testimony in Trial: It was only after Sneed testified that he put a hacksaw in room 112 at Glossip’s direction that the prosecutor re-called Kenneth Van Treese and asked him whether he found a hacksaw during his inventory of the motel.<sup>705</sup> Kenneth Van Treese then testified that he found a hacksaw in room 112.<sup>706</sup>
- 3. **Billye Hooper: Inconsistent testimony regarding the money picked up by Mr. Van Treese and failure to inform police of important details**
  - a. **Hooper gave differing accounts of the amount of money Mr. Van Treese picked up on January 6, 1997**
    - Statements to Police on Jan. 7, 1997: Hooper stated that, if the daily reports were correct, she figured Mr. Van Treese would have had **\$2,877** on his person.<sup>707</sup>
    - Preliminary Hearing: Hooper testified that the police asked her to count the day’s receipts since the last time Mr. Van Treese had been to the motel up until January 6, 1997, and it was “**somewhere around \$2,800, somewhere – not quite 3,000 but a little more than 2,800.**”<sup>708</sup>
    - Testimony in Trial 1: Hooper testified that Mr. Van Treese would have had “somewhere between right around **3,600** dollars” on him.<sup>709</sup>
    - Testimony in Trial 2: Hooper testified that, after Mr. Van Treese’s family asked her to “tally” up the books to “approximate how much money that Rich may have given [Mr. Van Treese] . . . when he came in for the money and the payroll[,]” she believed “it was probably somewhere around maybe like **3,500 to 4,000.**”<sup>710</sup>

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<sup>705</sup> Trial 2 Testimony of K. Van Treese, Vol. 15 at p. 20:7-9.

<sup>706</sup> *Id.* at 20:10-12.

<sup>707</sup> Jan. 7, 1997 Police Report by B. Cook, p. 1 (emphasis added).

<sup>708</sup> R. Glossip Preliminary Hearing Testimony of B. Hooper, at pp. 19:23-20:2 (emphasis added).

<sup>709</sup> Trial 1 Testimony of B. Hooper, Vol. 4 at p. 35:7-15 (emphasis added).

<sup>710</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at pp. 77:3-18; 83:19-21 (emphasis added).



**b. Hooper never mentioned to police that Mr. Van Treese was going to fire Mr. Glossip**

- Statements to Police on Jan. 7, 1997/Preliminary Hearing/Testimony in Trial 1: Hooper did not make any statements regarding Glossip's potential termination.
- Testimony in Trial 2: Hooper testified that it was her understanding that Mr. Van Treese was going to "take care of things" when he returned from his Christmas vacation in 1996 and that she did not expect Glossip to be manager when she returned to work on January 7, 1997 because she "believed he was probably going to be dismissed."<sup>711</sup>

**c. Hooper never mentioned to police that Glossip would take care of housekeeping for room 102**

- Statements to Police on Jan. 7, 1997: Hooper did not make any statements regarding the cleaning of room 102.
- Testimony in Trial 1: Hooper stated that she did not go into room 102 because Glossip had "dead bolted" the room and that Glossip told her that he and Sneed would "take care of that so not to put it on housekeeping."<sup>712</sup>
- Testimony in Trial 2: Hooper testified that, the morning after the murder, Glossip "said not to put room 102 on the housekeeping report because him and Justin were going to clean that room their self because the night before Barry had rented the room to a couple of drunks and they had busted out a window."<sup>713</sup>

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<sup>711</sup> Trial 2 Testimony of B. Hooper, Vol. 8 at pp. 34:5-13-35:3.

<sup>712</sup> Trial 1 Testimony of B. Hooper, Vol. 4 at pp. 15:11-16:9.

<sup>713</sup> Trial 2 Testimony of B. Hooper, Vol. 4 at pp. 64:1-12, 65:1-4.

**4. Dr. Chai Choi: Misleading and expanded testimony regarding cause and time of death from autopsy report to trial**

**a. Mr. Van Treese’s cause of death changed from blunt force head trauma to blood loss**

- Autopsy Report: Dr. Choi wrote that the means of Mr. Van Treese’s death was “blunt trauma.” Dr. Choi further wrote that the probable cause of death was “traumatic injuries of head, blunt force.”<sup>714</sup>
- Testimony in Trial 1: Dr. Choi testified that the official cause of death was “lacerations of the head with blunt force.”<sup>715</sup> The prosecutor then asked, “So is it fair to say the victim bled to death?”<sup>716</sup> Dr. Choi responded, “Yes, that’s major and inside of brain injury.”<sup>717</sup> In closing statements, the prosecutor stated that Mr. Van Treese “was beaten to death, bled to death, suffered and his death was unlawful.”<sup>718</sup>
- Testimony in Trial 2: Dr. Choi testified that the cause of Mr. Van Treese’s death was multiple blunt force injuries, mainly on the head.<sup>719</sup> The prosecution then asked, “And the immediate cause of his death, if I understood your testimony correctly, was that he bled to death?”<sup>720</sup> Dr. Choi answered “Yes, by the mechanism.”<sup>721</sup> Dr. Choi then testified that the cause of death was multiple blunt force injuries, mainly on the head, followed by a loss of blood.<sup>722</sup> When prosecutors asked whether the loss of blood or the brain injury caused a loss of consciousness, Dr. Choi first replied that she cannot tell if the loss of consciousness came from the brain injuries or the effects of the loss of blood.<sup>723</sup> To a similar

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<sup>714</sup> Jan. 8, 1997 Autopsy Report, at pp. 1, 2.

<sup>715</sup> Trial 1 Testimony of Dr. C. Choi, Vol. 4 at pp. 186:17-187:2.

<sup>716</sup> *Id.*

<sup>717</sup> *Id.*

<sup>718</sup> Trial 1 State’s Closing, Vol. 8 at pp. 8:25-9:6.

<sup>719</sup> Trial 2 Testimony of Dr. C. Choi, Vol. 11 at p. 55:11-15.

<sup>720</sup> *Id.* at 55:16-17.

<sup>721</sup> *Id.* at 55:18.

<sup>722</sup> *Id.* at 56:23-24.

<sup>723</sup> *Id.* at 57:3-7.

question, she later stated that “the brain injury is less degree, of my opinion, to ended up him to die [sic]. Is more bleeding problem is that – in this case.”<sup>724</sup> She then said it is “unlikely” Mr. Van Treese could have lived through the brain injury he received had he not bled to death.<sup>725</sup> When prosecutors asked Dr. Choi what she believes caused Mr. Van Treese’s death, she stated, “Head injury by blunt force” as well as the loss of blood that stemmed from these injuries.<sup>726</sup> In Trial 2 closing statements, the prosecutors relied on Dr. Choi’s testimony to argue that Mr. Van Treese was not dead when Mr. Sneed left Mr. Van Treese’s body in the motel room, but that Mr. Van Treese bled to death over a period of time.<sup>727</sup> The prosecutor stated that the loss of blood and lack of medical attention caused Mr. Van Treese’s death.<sup>728</sup> The prosecutor stated that Mr. Van Treese “might very well have regained consciousness” from the head injuries.<sup>729</sup> They pointed to Mr. Glossip’s failure to call for an ambulance as evidence that he wanted Mr. Van Treese dead.<sup>730</sup>

**b. Expanded opinion on Mr. Van Treese’s time of death without any scientific support**

- Autopsy Report: Dr. Choi did not make any statements regarding the time of Mr. Van Treese’s death.
- Testimony in Trial 1: Dr. Choi testified that Mr. Van Treese died “within a few hours.”<sup>731</sup> She stated, “Only I can say that he didn’t die immediately and to lose the blood and consciousness loss from a brain injury, so I’m not sure how long it takes, but under my examination

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<sup>724</sup> *Id.* at 61:9-13.

<sup>725</sup> *Id.* at 61:25-62:2.

<sup>726</sup> *Id.* at 62:10-24.

<sup>727</sup> Trial 2 State’s Closing, Vol. 15 at p. 79:9-13.

<sup>728</sup> *Id.*

<sup>729</sup> *Id.* at 60:10-20.

<sup>730</sup> *Id.* at 63:9-17.

<sup>731</sup> Trial 1 Testimony of Dr. C. Choi, Vol. 4 at p. 187:17-23.

through the tissues that are taken from his organs, I estimated within a few hours.”<sup>732</sup> Dr. Choi later stated, “I’m not able to exact how long he had survived, just a histological scientific examination, not more than eight hours. Likely to a few hours. Could be three hours, one hour, five hours, no way I can tell.”<sup>733</sup> Despite this lack of certainty, prosecutors emphasize that Mr. Van Treese bled out over a number of hours and could have survived had he received medical attention during this time.

- Testimony in Trial 2: Dr. Choi testified that “she couldn’t tell the number of hours” Van Treese was alive.<sup>734</sup> She stated, “We are talking hours, not days that based upon my examination, less than eight hours old. That could have been few hours. No way I can pin down the number of hours.”<sup>735</sup> Again, prosecutors used this testimony to substantiate their claims that Mr. Van Treese bled out over a number of hours, and would not have died if he had received medical attention.

The prosecution claimed that Mr. Van Treese laid dying for hours bleeding before succumbing to his wounds. Dr. Choi testified that Mr. Van Treese died from blood loss. The implication being that Glossip could have saved him and, by delaying telling authorities about Sneed’s statements, Glossip was complicit in and caused the death of Mr. Van Treese. The State’s distortion is evident in its Closing:

- “You know, as I’ve thought this case over and thought about what happened and what the facts show, you’ve heard the testimony of Dr. Choi, that most likely in this case actually Mr. Van Treese bled to death, and that while he had some head injuries, he might very well have regained consciousness without medical intervention from those head injuries and that he might have lived through those had his blood pressure not slipped so low that his consciousness was lost, not

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<sup>732</sup> *Id.*

<sup>733</sup> *Id.* at 199:6-11.

<sup>734</sup> Trial 2 Testimony of Dr. C. Choi, Vol. 11 at p. 56:3-12.

<sup>735</sup> *Id.*

temporarily from a head injury but permanently and irretrievably due to lack of, first, loss of blood and then later lack of medical intervention.”<sup>736</sup>

- “Again, I remind you there's evidence to support the notion that at some point Barry Van Treese didn't even have to die from those injuries. He bled to death. He bled to death laying on the floor of one of the rooms in his motel. But although he had opportunity after opportunity after opportunity to at least let the Van Treese family know what had happened to Barry, help the police find out, if you want to give him every benefit of the doubt, he passed on chance after chance after chance to do that and just actively or passively maintained that ‘I don't know what happened’ posture, contradictory though it was.”<sup>737</sup>

While defense counsel in Trial 2 briefly cross-examined Dr. Choi, no evidence was presented to the jury challenging Dr. Choi’s testimony or conclusions regarding cause of death or how long it would have taken for Mr. Van Treese to succumb to his injuries.<sup>738</sup>

This was significant as the jury did not hear counter evidence to this. Multiple post-trial interviews with jurors in Trial 2 revealed that many jurors found Dr. Choi’s testimony persuasive. For example, two jurors stated that Dr. Choi provided critical information about Mr. Van Treese’s death.<sup>739</sup>

The following counter evidence could have made a significant impact:

- Pathologist Carl Wigren, M.D. stated in a forensic report dated September 9, 2015 that the autopsy report completed by Dr. Choi supports the contention that Mr. Van Treese died within thirty minutes of the assault. He argued that there is no evidence supporting the conclusion that Mr. Van Treese instead died hours later.<sup>740</sup>

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<sup>736</sup> Trial 2, State’s Closing, Vol. 15 at pp. 60, 63.

<sup>737</sup> *Id.* at 78-79: 16-20.

<sup>738</sup> Defense counsel appears to have retained a forensic expert who was consulted for certain topics, including on Mr. Van Treese’s and Sneed’s injuries. See Letter from OIDS to Ekis (May 6, 2004). However, this individual was not called to testify.

<sup>739</sup> Interviews of Jurors 11 and 15.

<sup>740</sup> C. Wigren Forensic Report (September 9, 2015).

- Pathologist John Plunkett, M.D. stated in a letter dated September 12, 2015 that there is no scientific basis for the conclusion that Mr. Van Treese lived for up to eight hours after the assault. He noted that the autopsy findings contradict this.<sup>741</sup>
- Pathologist Shaku Teas, M.D. stated in a letter dated September 12, 2015 that there is no medical evidence to support the conclusion that Mr. Van Treese lived for hours after the assault.<sup>742</sup>
- Pathologist Michael Baden, M.D. provided in a report dated September 14, 2015 that, based on the autopsy report completed by Dr. Choi, the cause of death in this case was blunt force injury to the brain and head. He did not agree that Mr. Van Treese bled to death. He also stated that Mr. Van Treese likely died within minutes and rapid medical attention would not have changed this outcome.<sup>743</sup>

While these various individuals expressed concerns with Dr. Choi's testimony, the investigation has also uncovered some troubling opinions from Dr. Choi's colleagues regarding her practices.

Criminalist and forensic laboratory expert Laura Schile, who was hired by the Oklahoma City Police Department to introduce and operate the DNA lab, expressed concerns regarding Dr. Choi's malleable cause of death findings to the prosecution's case theory. Schile recalled that Dr. Choi was **"willing to change her manner of death depending on the wishes of the district attorney's office."**<sup>744</sup>

An OIDS investigator recalls a similarly troubling experience he had with Dr. Choi on a separate case involving Dr. Choi's finding of suffocation as the cause of death.<sup>745</sup> The investigator asked Dr. Choi how she could be sure the cause of death was suffocation, since the body was found in a severe state of decompensation (only bones were located). Dr. Choi responded, "Well, he died. He stopped breathing."<sup>746</sup>

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<sup>741</sup> Letter from J. Plunkett to James Castle (September 12, 2015).

<sup>742</sup> Letter from S. Teas (September 12, 2015).

<sup>743</sup> M. Baden Report at p. 1 (September 14, 2015).

<sup>744</sup> Affidavit of Laura Schile (Sept. 13, 2015) (emphasis added).

<sup>745</sup> April 2022 Reed Smith Interview of OIDS Criminal Investigator S. Leedy.

<sup>746</sup> *Id.*

Furthermore, at least one other of Dr. Choi's conclusions in other cases has been called into question. In that case, Dr. Choi certified an individual's death as a suicide. However, two medical examiners from other states challenged this, stating that the manner of death was actually homicide.<sup>747</sup>

The prosecution's willingness to put Dr. Choi and other witnesses on the stand in Trial 2 with expansive or changed testimony raises significant concerns. Based on jury feedback, this evidence had a significant impact on the verdict and had it not been allowed in, could have materially changed the outcome of the trial.

### **XVIII. Material Evidence To Properly Assess Sneed And His Credibility The Jury Never Heard**

One of the lead prosecutors in the case posited that, "[I]f the jury didn't believe that testimony that came direct to their ears from Justin Sneed, there's no way they would have convicted Richard Glossip."<sup>748</sup> But the jury did not hear material evidence countering the State's story that Sneed was Glossip's mild-mannered "puppet" unable to think on his own, who would never have committed this crime without Glossip's urging. Without this, the State painted a false picture of Sneed. One juror stated that Sneed was a manipulated young person who had a pitiful existence,<sup>749</sup> and another stated they felt that Sneed was the "hammer" for Glossip.<sup>750</sup> A third juror stated that Sneed "seemed the way the prosecution had presented him . . . [h]e was timid and not one to think for himself."<sup>751</sup>

In reality, the evidence shows that Sneed was a self-described "hustler" who was able to manipulate people to get food, drugs, and a free place to live. He was an avid drug abuser, with a criminal and violent background that went back to at least the eighth grade when he was kicked out of school for fighting. At the same time, he managed to convince certain people that he was "polite" and "meek" when it appears he actually was quite the opposite. If the jury had been

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<sup>747</sup> "M.E.'s Office Pathologist's Qualifications Called into Question," *News 9* (Apr. 28, 2010), <https://www.news9.com/story/5e35b4db83eff40362bef77b/mes-office-pathologists-qualifications-called-into-question>.

<sup>748</sup> Radical Media Interview with G. Ackley at part 3, pp. 24:29 (June 23, 2016).

<sup>749</sup> Interview of Juror No. 9.

<sup>750</sup> Interview of Juror No. 14.

<sup>751</sup> Interview of Juror No. 13.

presented with the full picture of Sneed's true character, we believe they would have had no problem concluding he was capable of committing this crime on his own, whether it was a robbery gone bad or an intentional killing.

#### **A. The Two Versions Of Justin Sneed**

The State consistently portrayed Sneed as meek, easily manipulated, and completely reliant on Glossip for his very sustenance. Instead, it appears it was Sneed who manipulated people into believing he was this way when, in fact, he was the opposite. He did this so well that he convinced people to let him play with their children, all the while the evidence reveals he was a habitual meth user with a criminal and violent background. Even the jury was convinced that Sneed was incapable of killing Mr. Van Treese without someone telling him to do it (Glossip). But when you consider that Sneed was an addict in need of money with violent tendencies who must have known that Mr. Van Treese carried a larger sum of cash, then the story becomes much simpler. The more plausible conclusion is that Sneed wanted to rob Mr. Van Treese, things got out hand, and Sneed ended up killing him. Sometimes the most obvious explanation is the correct one. The jury never got that obvious explanation.

The story that Sneed told at Glossip's trial, *i.e.* that he committed this bloody and violent murder for no reason apart from Glossip's demands, only makes sense if there is some serious character defect in the killer that he could succumb to another's pressure to commit such a heinous crime. Sneed's apparent ability to manipulate people into believing he is meek and unable to fend for himself provided the State with the opportunity to fill in this gap in Sneed's story. There is no question that some people who knew Sneed thought him meek and unassuming, and that he could not have committed this crime alone. Sneed apparently fooled Pursley, who testified that Sneed was "childlike" and that "[h]e didn't make a lot of decisions . . . . You had to tell him sometimes what to do."<sup>752</sup> Detective Bemo testified that Sneed did not exhibit any characteristics showing confidence, but instead was "kind of a pitiful person."<sup>753</sup>

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<sup>752</sup> Trial 2 Testimony of K. Pursley, Vol. 9 at p. 17:21-25.

<sup>753</sup> Trial 2 Testimony of B. Bemo, Vol. 14 at p. 47:10-15.



Detective Bemo also testified that he did not get the impression that Sneed was “very mature.”<sup>754</sup> Hooper likewise testified that Sneed was “always kind of quiet” and “very polite” to her.<sup>755</sup>

Moreover, the State honed in on the story that Sneed depended on Glossip so much that they argued that Sneed only ate when Glossip gave him food.<sup>756</sup> In its Opening, the prosecution stated:<sup>757</sup>

You'll hear the evidence from Justin Sneed and from others who lived there and worked around the motel that Justin Sneed ate only when Richard Glossip would be so kind as to give him some food. And it wasn't every day. But it

In reality, the evidence shows it was Sneed who was manipulating Glossip and others for food as well as drugs. Pursley confirmed that she too often purchased meals for Sneed in exchange for him going to pick food up for her and her family.<sup>758</sup> Hooper also gave Sneed food and money.<sup>759</sup>

Billye was asked about Justin, the maintenance man. She said that he was always polite and well mannered. She said that normally every morning she would send him to MacDonaldis to pick up some breakfast. She said that Justin worked only for his room and did not get any pay. She said that last Saturday she took Justin home to help her and her sister move. She said that they gave him some spending money for helping them.

This evidence directly contradicts the State’s narrative that Sneed was dependent on Glossip, and would only commit the crime because Glossip compelled him. If Pursley and Hooper

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<sup>754</sup> *Id.* at 46:24-47:1.

<sup>755</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 26:15-16.

<sup>756</sup> Trial 2 State’s Opening, Vol. 3 at pp. 203:22-204:2, 208:23-209:8.

<sup>757</sup> *Id.* at 209:5-8.

<sup>758</sup> May 2022 Reed Smith Interview of K. Pursley.

<sup>759</sup> January 9, 1997 Police Supp. Report of Detective W. Cook.

gave food to Sneed, then under the State's theory, Pursley and Hooper might also have ordered the killing. But even Sneed portrayed himself as a hustler, which is a far cry from a meek and mild "puppet":<sup>760</sup>

19 | Q. Okay. What did you do for money after you spent the  
20 | roofing money?  
21 | A. I really didn't do anything for money. I just kind of  
22 | hustled what I could here and there and that was it.

Sneed also hustled and manipulated people to get drugs to feed his drug habit:<sup>761</sup>

6 | Q. And as far as your use of drugs, and you have been very  
7 | candid about that, you used marijuana and crank?  
8 | A. Yes.  
9 | Q. Some of that use came as a result of you using the  
10 | money you'd made roofing?  
11 | A. Yes.  
12 | Q. And some of it just hustling up the money to get it?  
13 | A. Yes, sir.  
14 | Q. Or, if you will, kind of joining a group of people that  
15 | were using and being able to obtain some in that  
16 | circumstance?  
17 | A. Yes, sir.  
18 | Q. Now, what is crank?  
19 | A. It's methamphetamine.

Sneed successfully hid his hustling and drug use from others when he wanted to, especially from those he lived and worked around at the Best Budget Inn. Pursley, who had a

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<sup>760</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 69:19-22.

<sup>761</sup> *Id.* at 196:6-19.

great deal of contact with Sneed, claims she never witnessed Sneed doing drugs.<sup>762</sup> She stated that she would not have let Sneed play with her children if he were an obvious, heavy drug user.<sup>763</sup> Hooper likewise was not aware of Sneed's drug use.<sup>764</sup> Even Glossip admits he did not know Sneed was on drugs.<sup>765</sup>

Sneed continued his manipulation at trial by downplaying his drug use, and no counter narrative was presented.<sup>766</sup> As detailed below, however, several people from other parts of Sneed's life witnessed Sneed frequently abusing drugs, and being angry and abusive. Sneed's ability to hide this behavior from those he dealt with on a near-daily basis shows he is more manipulator than puppet. He manipulated the people at the Best Budget Inn, including Glossip, and he manipulated the police, prosecutors, and jury.

Sneed may have convinced the jury he would have never committed this crime alone, but the evidence that severely undermines the State's theory and puts Sneed in a much different light did not get to the jury. In addition, the State's theory ignores the very simple and obvious fact that Sneed is the one who committed this brutal murder. Sneed is the one who entered the room and swung a baseball bat multiple times at another human being without regard for his life. That is not the act of meek puppet. Had the jury been told who Sneed really was, they would have seen how Sneed easily could have done this all on his own without needing anyone to tell him what to do.

### **1. Evidence Countering Sneed's Portrayal As A Mere Puppet**

The State put forth a narrative that painted Sneed as dependent and easily manipulated to the point that he became a weapon to be manipulated by Glossip. The prosecutor opened the case by arguing:

You will hear that Richard Eugene Glossip had at his disposal the means to commit murder. He had Justin Sneed a 19-year-old drifter who was doing just about what

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<sup>762</sup> *Id.*

<sup>763</sup> *Id.*

<sup>764</sup> Trial 2 Testimony of K. Pursley, Vol. 8 at p. 15:3-5.

<sup>765</sup> April 2022 Reed Smith Interview of R. Glossip.

<sup>766</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 65:22-66:4.

Richard Glossip wanted him to in a lot of different walks of life and Richard Glossip was able to use him to solve the problem he had on January 6th, 1997.<sup>767</sup>

The State portrayed Sneed as incapable of significant independent action and, thus, easily drawn into Glossip's alleged plot to kill Mr. Van Treese. However, the jury never heard significant and material evidence that shows the deep flaws in this narrative. This evidence includes Sneed's violent behavior in school, prior criminal history, actions in Oklahoma, and his abusive drug use. If presented to the jury, this evidence would have unmasked the real Sneed. The evidence demonstrates that, before he murdered Mr. Van Treese, Sneed was an adult who made his own decisions and was capable of acting on his own accord, which included the decision to go into room 102 and beat Mr. Van Treese with the baseball bat that Sneed previously took on his own from another room at the motel.<sup>768</sup>

#### **a. Sneed's History of Angry Outbursts and Trouble**

Our investigation reveals that Sneed had a history of troubled and violent behavior before moving to Oklahoma, meeting Glossip, and coming to the Best Budget Inn. To begin, Sneed was kicked out of school in the eighth grade for fighting other students and teachers.<sup>769</sup> He was described as a "trouble maker."<sup>770</sup> He admits he used to "reject authority" and got into trouble frequently while growing up.<sup>771</sup> He had "plenty of spankings" as a child.<sup>772</sup> Sneed's "violent history" was characterized by "'ups and downs' including anger outburst[s]."<sup>773</sup> This is not the picture of the meek puppet the prosecution portrayed. The jury heard none of this.

Sneed attended Cisco Jr. High until he was kicked out.<sup>774</sup> According to Spann, a fellow classmate and friend,<sup>775</sup> Sneed was a "manipulative guy" and "bully type" in school, who was into

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<sup>767</sup> Trial 2 State's Opening, Vol. 3 at pp. 203:22-204:2.

<sup>768</sup> January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 30:15-21.

<sup>769</sup> J. Sneed Competency Evaluation (July 1, 1997).

<sup>770</sup> *Id.*

<sup>771</sup> *Id.*

<sup>772</sup> *Id.*

<sup>773</sup> *Id.*

<sup>774</sup> Justin Sneed Pre-Sentence Investigation Report, Oklahoma County District Court (June 10, 1998).

<sup>775</sup> Jamie Spann, who later worked in roofing with Sneed, was also staying at the Best Budget Inn in January 1997 along with Justin Sneed a few days before the murder. Best Budget Inn Oklahoma City Log (Daily Reports from Jan. 1-8, 1997).

drugs and liked to fight.<sup>776</sup> Sneed was a “stoner” who tried to sell marijuana (or fake marijuana) to the boys at the Wade Matthews Boys’ Home near the school.<sup>777</sup> Sneed also “used to break into homes” and would “steal anything that wasn’t bolted down.”<sup>778</sup> Spann specifically remembered that Sneed and another person broke into the school, stole a computer, and bragged about it frequently afterwards.<sup>779</sup> Once more, the jury never heard this information.

### **b. Sneed’s Criminal History**

Even more, the jury never heard about Sneed’s criminal history, which is set forth in the competency report obtained in Sneed’s criminal case (Oklahoma County Case No. 1997-244). This report was done before Sneed pled guilty and agreed to testify against Glossip. The report addressed convictions for making a bomb threat and burglary, and Sneed’s history of passing “hot checks.”<sup>780</sup> These crimes, though made when Sneed was a juvenile, reflect his character at the time of the murder since Sneed was only 19 when he killed Mr. Van Treese. In addition, the jury never heard that Sneed had a pattern of blaming others when he commits a crime. This would have been significant to cast doubt on Sneed’s story that Glossip coerced him to kill Mr. Van Treese. Sneed’s blaming Glossip for the murder seems to be part of Sneed’s pattern to never take responsibility for his conduct, as further explained below.

#### “Coerced” by Girlfriend into Making a Bomb Threat

First, Sneed admitted that he got in trouble for making a bomb threat. He originally justified his behavior, however, by claiming that he “let [his] girlfriend coerce [him] into bomb-threatening her school.”<sup>781</sup> Yet, in another interview, Sneed told a different story. He claimed to be angry with a teacher and a system forcing him to attend school.<sup>782</sup> A local newspaper reported on the bomb threat, recounting that it occurred at Ranger School on August 29, 1990.<sup>783</sup> The

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<sup>776</sup> Declaration of Jamie Spann (Feb. 7, 2018).

<sup>777</sup> *Id.*

<sup>778</sup> *Id.*

<sup>779</sup> *Id.*

<sup>780</sup> J. Sneed Competency Evaluation (July 1, 1997); and J. Sneed Pre-Sentence Investigation Report, Oklahoma County District Court (June 10, 1998).

<sup>781</sup> C. Aspinwall Interview of J. Sneed (September 15, 2015).

<sup>782</sup> L. Cooper Interview of J. Sneed (April 17, 2001).

<sup>783</sup> *Bomb Threat to School Wednesday*, RANGER TIMES (Sept. 2, 1990).

threat, called in to the fire chief, resulted in a complete evacuation of both children and law enforcement, as well as recruiting the Dyess Air Force Base to bring airmen and dogs trained to search for bombs.<sup>784</sup> The reporter described the threat as “apparently a hoax.”<sup>785</sup> Sneed served a year’s probation for the bomb threat and burglary (detailed below).<sup>786</sup>

#### “Coerced” by Friends to Commit a Burglary

Second, Sneed also admitted that he burglarized an abandoned house as a teenager, a crime called Burglary of a Habitation in Texas.<sup>787</sup> Yet again, Sneed explained away his behavior by stating that he “let some friends coerce [him] into a burglary of habitation[.]”<sup>788</sup> As stated, Sneed served a year’s probation in connection with this crime.<sup>789</sup>

#### Sneed left Texas after his Arrest for Writing Bad Checks

Finally, and prior to meeting Glossip, Sneed was arrested twice for “Theft by Check” in Eastland County, Texas, once in December 1995,<sup>790</sup> and then again in May 1996.<sup>791</sup> The complaint against Sneed alleged that the juvenile used a check for \$115.83 to pay for merchandise even though his bank had insufficient funds to cover the check.<sup>792</sup> On May 2, 1996, right before he arrived in Oklahoma, Sneed failed to appear to answer the charges. The judge issued an arrest warrant and a bond of \$2000.<sup>793</sup> Sneed admitted to these hot checks in a post-conviction interview.<sup>794</sup>

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<sup>784</sup> *Id.*

<sup>785</sup> *Id.*

<sup>786</sup> J. Sneed Competency Evaluation (July 1, 1997).

<sup>787</sup> Radical Media Interview with J. Sneed (November 17, 2016). He stated in a different interview that this was a burglary to a school. L. Cooper Interview of Justin Sneed (April 17, 2001).

<sup>788</sup> C. Aspinwall Interview of Justin J. Sneed (September 15, 2015).

<sup>789</sup> J. Sneed Competency Evaluation (July 1, 1997).

<sup>790</sup> Personal Information Sheet: Justin Blayne Sneed, Eastland County Sheriff’s Department, Sneed Tx. Crime Sheet & Photo.

<sup>791</sup> *Id.*

<sup>792</sup> *State of Texas v. Justin Sneed*, No. 95-329, Eastland County Texas Court (July 12, 1995).

<sup>793</sup> *Id.*

<sup>794</sup> C. Aspinwall Interview of J. Sneed (Sept. 15, 2015).

### c. Sneed's Behavior after Arriving in Oklahoma

Sneed and his stepbrother, Wesley Taylor, came to Oklahoma allegedly to escape family problems, make a better life, or get away from a parole violation and hot checks.<sup>795</sup> Sneed worked for Brassfield Roofing for about three to four months in 1996, beginning in Texas but ending in Oklahoma.<sup>796</sup> The roofing crew stayed at various motels, including the Oklahoma City Best Budget Inn.<sup>797</sup> Taylor and Sneed convinced Glossip to let them do maintenance work in exchange for a free room at the motel.<sup>798</sup> Sometime in October or November 1996, Sneed's stepfather came and took Taylor back to Texas to serve his jail sentence.<sup>799</sup> Sneed decided to stay behind at the motel.<sup>800</sup> Sneed thereafter quit the roofing crew to work solely at the motel doing maintenance, although he kept in contact with the roofing crew since the roofers continued to stay at the motel.<sup>801</sup> As later explained in an interview, Sneed appeared to enjoy his time at the motel due to the prevalence of drugs and women:

**[S]moking marijuana and, and getting a little bit of crack here and there to smoke on top of it and just um, meeting a, a couple of girls was the only reasons why I was probably staying at that motel anyway.<sup>802</sup>**

Sneed was thus not staying at the motel because Glossip was making him stay there or because he was Glossip's puppet, but because of the ease of access to drugs and women. This lifestyle lasted for about four months until Sneed killed Mr. Van Treese.

According to Spann, who, in addition to being Sneed's friend, came to Oklahoma to work with the roofing company, Sneed acted like he "owned the motel[,]" as if he "wanted everyone to pay him to sell drugs" or split profits if they engaged in sex work.<sup>803</sup> At this time, Sneed was

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<sup>795</sup> S. Leedy Interview of W. Taylor (Aug. 13, 2002).

<sup>796</sup> Justin Sneed Pre-Sentence Investigation Report, Oklahoma County District Court (June 10, 1998).

<sup>797</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at pp. 44:7–45:16.

<sup>798</sup> *Id.* at pp. 46:12–47:15.

<sup>799</sup> *Id.* at 195:2–195:6.

<sup>800</sup> *Id.*

<sup>801</sup> For instance, Jamie Spann stayed at the Best Budget Inn in early January 1997 along with Justin Sneed. Best Budget Inn Oklahoma City Log (Daily Reports from Jan. 1-8, 1997). Additionally, in Sneed's cross-examination, he admitted that the Brassfields may have told him around Christmas of 1996 that he could return and work for them. Trial 2 Testimony of J. Sneed, Vol. 13 at pp. 8:22–10:3.

<sup>802</sup> C. Aspinwall Interview of J. Sneed (Sept. 15, 2015).

<sup>803</sup> Declaration of Jamie Spann (Feb. 7, 2018).

“always high” and would go to parties and do drugs, including meth every night.<sup>804</sup> Spann called Sneed a “thief” who would steal from other roofers.<sup>805</sup> Spann also recalled witnessing Sneed steal a welder from a truck and a grill from a house they worked on.<sup>806</sup> She further explained that Sneed carried around a purple Crown Royal bag that he would use to store stolen jewelry.<sup>807</sup> Spann believed that Sneed would do things “just for the attention”<sup>808</sup> and that he hung around the strip club near the motel and partied with the workers.<sup>809</sup> Spann further opined that Sneed acted mean when he was coming off meth,<sup>810</sup> which is particularly relevant given the fact that (1) Sneed admitted to doing meth just days before the murder<sup>811</sup> and (2) that he was coming down from a two-day meth run around the time of the murder.<sup>812</sup> Finally, Spann also stated that Sneed liked to fight, recalling a time where he was going to fight another roofer named James Steadum before the roofer was fired later that day.<sup>813</sup>

According to Richard Allan Barrett, a regular visitor at Best Budget Inn who dealt methamphetamine at the motel, Sneed broke into cars at the motel parking lot and stole items.<sup>814</sup> Barrett specifically has stated, “I saw nothing to make me think that Justin Sneed was controlled by Richard Glossip. I never saw anything to make me think that Richard Glossip knew anything about Justin Sneed stealing from motel rooms or cars in the motel parking lots or the businesses nearby.”<sup>815</sup>

#### **d. Sneed’s Substance Abuse**

Sneed continued to abuse drugs up until the time he killed Mr. Van Treese, and it appears even afterwards while in jail. Not only did multiple witnesses observe Sneed doing drugs, but Sneed himself admitted to this drug use. Specifically, Sneed told the psychiatrist evaluating his

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<sup>804</sup> *Id.*

<sup>805</sup> *Id.*

<sup>806</sup> *Id.*

<sup>807</sup> *Id.*

<sup>808</sup> *Id.*

<sup>809</sup> *Id.*

<sup>810</sup> *Id.*

<sup>811</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 111:16 – 112:11.

<sup>812</sup> L. Burch and M. Haire Interview of J. Sneed (January 24, 2000).

<sup>813</sup> *Id.*

<sup>814</sup> Affidavit of Richard Allan Barrett (Sept. 9, 2015).

<sup>815</sup> *Id.*



competency that he used a variety of drugs, including marijuana, crank, cocaine, and acid.<sup>816</sup> Sneed also admitted to interviewers that he was doing drugs at the motel, and was “[p]retty much high every day [he] was there.”<sup>817</sup> He stated that he got these drugs for free from two older men, one of whom might have been named “Critter.”<sup>818</sup> The other is likely Albert Mize, who described selling drugs to Sneed at the Best Budget Inn.<sup>819</sup> The ability to get drugs for free further demonstrates Sneed’s ability to manipulate. Sneed did not rely on Glossip for any aspect of his drug abuse.

Several other witnesses confirm Sneed’s heavy drug use. According to Joseph Tapley, another inmate, Sneed was “tweaking”<sup>820</sup> while in jail and they even snorted methamphetamine during their incarceration together.<sup>821</sup> Sneed’s drug use is further supported by Roger Lee Ramsay, who was housed in the same unit as Sneed and stated that Sneed “was pretty strung out at the jail.”<sup>822</sup> Similarly, an Oklahoma Department of Corrections letter to Sneed’s trial judge indicates that when Sneed was received at the Lexington Assessment and Reception Center, he had an immediate need for Substance Abuse Education and Counseling.<sup>823</sup>

Garcia stated that she came to know Sneed while working at the Vegas Club near the Best Budget Inn.<sup>824</sup> She recounted personally using drugs with Sneed over twenty times wherein she witnessed him inject himself with methamphetamine and heroin.<sup>825</sup> Garcia said Sneed would buy drugs from a dealer at the Best Budget Inn.<sup>826</sup> She further stated that he also smoked crack cocaine and would become violent.<sup>827</sup> Garcia felt that when “Sneed was high, he was crazy” and

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<sup>816</sup> J. Sneed Competency Evaluation (July 1, 1997).

<sup>817</sup> C. Aspinwall Interview of J. Sneed (Sept. 15, 2015)

<sup>818</sup> *Id.*; Radical Media Interview with J. Sneed (June 13, 2016). Note: “Critter” is thought to be Bobby Glossip, Richard Glossip’s brother. Affidavit of Albert Mize (Nov. 26, 2019).

<sup>819</sup> *Id.*

<sup>820</sup> “Tweaking” means to be under the influence of methamphetamine.

<sup>821</sup> Affidavit of Joseph Tapley (September 21, 2015).

<sup>822</sup> Affidavit of Roger Lee Ramsay (June 11, 2016).

<sup>823</sup> Letter from Oklahoma Department of Corrections to Judge Freeman (Sept. 14, 1998). Additionally, Officer Tim Brown testified at Sneed’s preliminary hearing that there were rumors he was involved in narcotics at the motel. J. Sneed Preliminary Hearing Testimony of T. Brown, at pp. 7:25-8:5, 20:20-21:2.

<sup>824</sup> Affidavit of Stephanie Garcia (June 19, 2018).

<sup>825</sup> *Id.*

<sup>826</sup> *Id.*

<sup>827</sup> *Id.*

when he was coming down from a high, he was “even crazier.”<sup>828</sup> In our 2022 interview, Garcia confirmed this, stating that Sneed was a “hardcore” drug user who got “insane” when he was high.<sup>829</sup> In addition, Garcia believed that Sneed was trying to hide his drug use from Glossip.<sup>830</sup> Importantly, Garcia was not questioned about the case until 2018, but reported feeling coerced by police not to disclose any information during the murder investigation.<sup>831</sup>

Tricia Eckhart, a resident and worker at the Best Budget Inn, also stated that Sneed was a “horrible drug addict.”<sup>832</sup> She believed he may have been buying drugs from her ex-husband, Mike Fuglsang, “or Barrett, Mize, or Critter.”<sup>833</sup> Eckhart was not interviewed by police or anyone until she was interviewed in 2019.<sup>834</sup>

Albert Mize explained how he sold methamphetamine to Sneed at the Best Budget Inn.<sup>835</sup> Mize recalled that Sneed was a “full blown addict” who “used methamphetamine intravenously on a daily basis.”<sup>836</sup> He described Sneed as a “hot head” who was “always acting like a tough guy or big shot.”<sup>837</sup> Mize does not remember him being “slow” or “meek.”<sup>838</sup> Mize remembered that Sneed often had a “strung-out” girlfriend with him.<sup>839</sup> Once, Mize told the two of them that he did not want to sell drugs to them because she looked too young; Sneed reacted by “blowing up as a real tough guy.”<sup>840</sup> Mize stated that no investigators, police, or attorneys ever spoke with him about Sneed or the case until 2019.<sup>841</sup>

Spann also recalled doing methamphetamine with Sneed.<sup>842</sup> According to Spann, Sneed was “always high” and would go to parties and do drugs, including meth, every night.<sup>843</sup> Spann

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<sup>828</sup> *Id.*

<sup>829</sup> March 2022 Reed Smith Interview of S. Garcia.

<sup>830</sup> *Id.*

<sup>831</sup> *Id.*

<sup>832</sup> Affidavit of Tricia Eckhart (November 24, 2019).

<sup>833</sup> *Id.*

<sup>834</sup> *Id.*

<sup>835</sup> Affidavit of Albert Mize (November 26, 2019).

<sup>836</sup> *Id.*

<sup>837</sup> *Id.*

<sup>838</sup> *Id.*

<sup>839</sup> *Id.*

<sup>840</sup> *Id.*

<sup>841</sup> *Id.*

<sup>842</sup> Declaration of Jamie Spann (February 7, 2018).

<sup>843</sup> *Id.*

saw Sneed shoot meth with a needle and mix it using the bottom of a beer or soda can.<sup>844</sup> He always had a bag of dope on him.<sup>845</sup> When Spann first met him, he got his meth down from a cook in Ranger, Texas but then met a dealer named “Critter” or “Crit” at the Best Budget Inn.<sup>846</sup> Spann stated that no investigators, police, or attorneys ever spoke with him about Sneed or the case until 2018.<sup>847</sup> Even Sneed’s mother, Roberta Reyes, stated that Sneed was heavy into drugs at the time of the murder.<sup>848</sup>

Finally, Richard Allan Barrett, who regularly visited the Best Budget Inn to deal methamphetamine, stated that Sneed bought drugs at the motel, specifically in room 102, and would trade cash and various items, such as car stereos, \$150 worth of food stamps, a Samsonite briefcase, and a nickel-plated .38 caliber handgun, for methamphetamine.<sup>849</sup> Barrett stated that he observed “Justin Sneed shoot up with a needle,” and that based on his experience, he believed “Justin Sneed was addicted to methamphetamine in a bad way.”<sup>850</sup> Barrett noted that he often saw “Justin Sneed ‘tweaking’” and that such behavior “is a sure sign that someone is high on methamphetamine.”<sup>851</sup>

## **2. Evidence Countering Sneed’s Nonviolent, Meek Demeanor**

The State argued that Sneed was a meek person, and not prone to violence on his own. Prosecutors thus told the jury that Sneed would not have committed the murder without coercion from Glossip. Yet, there is significant evidence that Sneed’s actions, independent of Glossip, demonstrate a violent and volatile demeanor, both before and after the murder.

### **a. Heavy Methamphetamine Use Can Lead To Violent Behavior**

Sneed’s drug use may have contributed to his violent and erratic behavior, particularly his heavy use of methamphetamine. This alone might explain his extreme violence against Mr. Van

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<sup>844</sup> *Id.*

<sup>845</sup> *Id.*

<sup>846</sup> *Id.*

<sup>847</sup> *Id.*

<sup>848</sup> Affidavit of Quinn O’Brien (September 9, 2015).

<sup>849</sup> Affidavit of Richard Allan Barrett (September 9, 2015).

<sup>850</sup> *Id.*

<sup>851</sup> *Id.* Barrett also noted that people with a meth addiction may steal to support their habit, and can get “very paranoid and mean” while high on methamphetamine.

Treese. There is little doubt that methamphetamine use can cause psychosis and aggressive and violent behavior and Sneed admitted to using meth shortly before the murder. Likewise, many witnesses attest to his violent tendencies as explained below, particularly in connection with his drug use. As one article explains, meth use can lead to psychosis, which can include paranoia, aggression or violence and can continue long-term in some cases.<sup>852</sup> Another study demonstrates an increase in violent behavior among individuals using methamphetamine. The study defined “violent behavior” as “severe hostility.”<sup>853</sup> An October 2002 paper from the National Drug Intelligence Center, titled *Oklahoma Drug Threat Assessment*, stated that methamphetamine was “the greatest drug threat to Oklahoma” and that “[v]iolence associated with the production, distribution and abuse of methamphetamine poses a significant threat to the safety of Oklahoma’s residents.” The study included data going back to 1997.<sup>854</sup> None of this was explored at trial.

#### **b. History Of Sneed’s Violent Tendencies**

In 1994, Sneed got married at age 17 to Sharrai Smoot, who he had been dating since he was 16.<sup>855</sup> They had two daughters together, O’Ryan (also known as Justine)<sup>856</sup> and Ariel.<sup>857</sup> Sneed and Smoot separated by the time Sneed was standing trial.<sup>858</sup>

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<sup>852</sup> Dr. Jessica Phytilla, PharmD, Meth Psychosis: Why Meth Use Can Induce Paranoia And Hallucinations, <https://www.therecoveryvillage.com/meth-addiction/meth-psychosis/> (last updated May 25, 2022).

<sup>853</sup> McKetin R, Lubman DI, Najman JM, Dawe S, Butterworth P, Baker AL. Does methamphetamine use increase violent behaviour? Evidence from a prospective longitudinal study. *Addiction*. 2014 May;109(5):798-806. doi: 10.1111/add.12474. Epub 2014 Feb 16. PMID: 24400972.

<sup>854</sup> <https://www.justice.gov/archive/ndic/pubs2/2286/meth.htm>

<sup>855</sup> Marriage License of Justin Sneed and Sharrai Smoot (Aug. 8, 1994), Marriage License, Sneed, Justin – Marriage to Sharrai – Eastland County Court; J. Sneed Competency Evaluation (July 1, 1997)); J. Sneed Pre-Sentence Investigation Report, Oklahoma County District Court (June 10, 1998), Oklahoma Department of Corrections Pre-Sentence Investigation Report for Justin Sneed, 1998-06-10.

<sup>856</sup> Mark Henricksen, one of Glossip’s post-conviction defense attorneys, received an email in 2014 purportedly from Justine Sneed. The email attached a letter to the Parole Board in connection with Glossip’s clemency hearing asserting that Justin Sneed might recant his original testimony. We have obtained a copy of the original email from Henricksen with the letter, which appears to be from Justine Sneed’s email address (justinesneed@gmail.com). We have not been able to definitively confirm that it was sent by Justine Sneed, although we have no reason to doubt that it was. We have reached out to Justine Sneed but have been unable to secure an interview.

<sup>857</sup> J. Sneed Competency Evaluation (July 1, 1997).

<sup>858</sup> *Id.*

Smoot recounted that Sneed was never violent towards her or the children.<sup>859</sup> However, she recalled a time where he got angry after they got into an argument.<sup>860</sup> Sneed allegedly left and came back to see that Smoot had friends over.<sup>861</sup> When he came back in, he hit one of the men in the eye who was asleep, because he “thought something happened.”<sup>862</sup> Smoot stated that she endured a custody battle with Child Protective Services and Sneed’s family over their daughters; she stated that Sneed signed away his parental rights.<sup>863</sup> According to Sneed and Ariel, however, Smoot left the family and the two daughters with Sneed.<sup>864</sup> Sneed left his daughters in Texas when he moved to Oklahoma.<sup>865</sup>

Garcia remembered that, at first, Sneed seemed like a “cute, young working guy” but “things changed very quickly when he started using drugs heavily” and he became “very scary.”<sup>866</sup> Sneed and some of the girls would rent rooms at the Best Budget Inn, where Garcia claimed that Sneed “thought that the girls were his for the taking[.]”<sup>867</sup> Garcia recounted that when Sneed used drugs, he became “violent and paranoid” as well as “cruel” to the club dancers.<sup>868</sup> Garcia stated that he tried to get the dancers’ money to buy drugs for himself.<sup>869</sup> Garcia also recalled that Sneed had used the dancers to lure men into rooms at the motel to rob them of their money.<sup>870</sup> She remembered Sneed being violent with the dancers and witnessed him shoving a dancer into a bathroom at the Best Budget Inn and calling her a “fucking bitch.”<sup>871</sup> Garcia told us in an interview that he strangled the dancer to the point where Garcia felt like she had to intervene.<sup>872</sup> Garcia stated that Sneed had a relationship with a certain dancer and they would

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<sup>859</sup> Danalynn Recer Interview of Sharrai Smoot (Aug. 17, 2015).

<sup>860</sup> *Id.*

<sup>861</sup> *Id.*

<sup>862</sup> *Id.*

<sup>863</sup> *Id.*

<sup>864</sup> Quinn O’Brien Interview of Ariel Sneed (Aug. 12, 2015).

<sup>865</sup> Danalynn Recer Interview of Sharrai Smoot (Aug. 17, 2015).

<sup>866</sup> *Id.*

<sup>867</sup> *Id.*

<sup>868</sup> *Id.*

<sup>869</sup> *Id.*

<sup>870</sup> *Id.*

<sup>871</sup> *Id.*

<sup>872</sup> March 2022 Reed Smith Interview of S. Garcia.

stay at the Best Budget Inn together.<sup>873</sup> She recalled a specific incident where she personally witnessed Sneed pick[] up a brick and [say] he was going to get money.”<sup>874</sup> According to Garcia, Sneed returned with drugs and blood on his shirt later that evening.<sup>875</sup> Garcia did not find Justin Sneed to be “meek,” but instead found him to be “volatile” and a “junkie.”<sup>876</sup>

Eckhart stated that she remembered Justin Sneed from the motel.<sup>877</sup> Eckhart recalled that she found Sneed to be “creepy and dirty” and that there was “something just off about him.”<sup>878</sup> She did not allow Sneed to be alone with her children and was concerned about him commenting on her six-year-old daughter’s appearance.<sup>879</sup> Eckhart remembered a time that Sneed once came into her room without asking; she believed he used his key to get in.<sup>880</sup> She thought he was coming to steal from her since Sneed had been caught stealing from the rooms of other guests on more than one occasion.<sup>881</sup> Eckhart noted that she thought Sneed was on the verge of losing his job.<sup>882</sup> She also remembered that Sneed was frequently hitting on the younger 16 and 17-year-old girls who hung around the motel.<sup>883</sup> She said he would grope them and make lewd comments like, “I’d like to tear that up.”<sup>884</sup>

Notably, Eckhart was not surprised when Sneed was arrested for the murder.<sup>885</sup> She recalled overhearing Sneed talking on the phone at the motel to someone about who she assumed was Mr. Van Treese, not long before the Christmas holiday.<sup>886</sup> She does not know who Sneed was talking to, but she clearly heard Sneed say that the motel owner was “going to get what he deserved.”<sup>887</sup>

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<sup>873</sup> *Id.* This dancer may have been known as Fancy or Mercedes. She carried around a bottle of Crown Royal in a purple drawstring bag. Affidavit of Stephanie Garcia (Jun. 19, 2018).

<sup>874</sup> Affidavit of S. Garcia (Jun. 19, 2018).

<sup>875</sup> *Id.*

<sup>876</sup> March 2022 Reed Smith Interview of S. Garcia.

<sup>877</sup> Affidavit of Tricia Eckhart (Nov. 24, 2019). Eckhart was formerly known as Pat Fuglsang. *Id.*

<sup>878</sup> *Id.*

<sup>879</sup> *Id.*

<sup>880</sup> *Id.*

<sup>881</sup> *Id.*

<sup>882</sup> *Id.*

<sup>883</sup> *Id.*

<sup>884</sup> *Id.*

<sup>885</sup> *Id.*

<sup>886</sup> *Id.*

<sup>887</sup> *Id.*

Relatedly, Margaret Humphrey, a resident and maid at the Tulsa Best Budget Inn, recalled a similar story.<sup>888</sup> Humphrey stated that the “young, skinny” maintenance man, whom she identified as Sneed by photograph, was very aggressive and on drugs.<sup>889</sup> One day, when he came to Tulsa with Mr. Van Treese to do some work, she heard him yelling at Mr. Van Treese about not being paid.<sup>890</sup> Later on, Humphrey overheard Sneed say that he was going to “rob and kill Barry” when he came back to the Best Budget Inn for payday.<sup>891</sup> She said Sneed stated that Mr. Van Treese would “would get what was owed to him.”<sup>892</sup> Humphrey did not know the name of the other person that Sneed was talking to, but she said that it was not Glossip when shown a photograph of him by investigators.<sup>893</sup> When shown a picture of Sneed, Humphrey became physically upset and told the investigator that he was “the devil.”<sup>894</sup> She stated that when she heard Mr. Van Treese was murdered, she immediately believed it was the maintenance man, Sneed.<sup>895</sup> Humphrey was not contacted or interviewed by police or investigators until 2019.<sup>896</sup>

### **c. Competency Evaluation: Prone To Angry Outbursts, And Mood Instability**

Sneed’s original defense attorney, George Miskovsky III, requested a competency determination, alleging that Sneed was incompetent to stand trial.<sup>897</sup> The psychiatrist who performed the competency evaluation, Dr. Edith King, opined in her report that, although Sneed “did not give the impression being a violent person” and was “calm,” he would pose a significant threat to the life and safety of himself or others if released without treatment because he had “a violent history, a history of polysubstance abuse, and [was] facing charges on a violent crime.”<sup>898</sup>

Dr. King deemed Sneed to be competent to stand trial but “mentally ill” under Oklahoma Statute Title 43A, Section A.<sup>899</sup> Sneed did not think he had any serious mental problems, but said

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<sup>888</sup> Affidavit of Margaret Humphrey (Nov. 24, 2019).

<sup>889</sup> *Id.*

<sup>890</sup> *Id.*

<sup>891</sup> *Id.*

<sup>892</sup> *Id.*

<sup>893</sup> *Id.*

<sup>894</sup> *Id.*

<sup>895</sup> *Id.*

<sup>896</sup> *Id.*

<sup>897</sup> *Oklahoma v. Sneed*, Case No. CF-97-0244, Application for Determination of Competency (Apr. 18, 1997).

<sup>898</sup> J. Sneed Competency Evaluation (July 1, 1997).

<sup>899</sup> *Id.*

he felt “déjà vu” and anger often.<sup>900</sup> He was placed on lithium at the jail, which helped him “not to feel so angry.”<sup>901</sup> Sneed told Dr. King that he had anger issues as a child in school.<sup>902</sup> Dr. King opined that he “may well have had ADHD and mood instability.”<sup>903</sup> He denied hallucinations, but said he sometimes got ringing in his ears.<sup>904</sup> Dr. King concluded that Sneed might have “an atypical mood swing disorder . . . characterized by ‘ups and downs’ including anger outburst[s] . . . and hyperactivity.”<sup>905</sup> Thus, it appears that Dr. King was able to see through the apparent façade that Sneed put up as a meek and subservient person.

Although the State had this information, it decided nevertheless to ignore it and portray Sneed as a nonviolent, meek person who could only kill another person at Glossip’s direction.

### **3. Evidence Countering Sneed’s Complete Reliance And Dependence On Glossip.**

The prosecution distorted the facts, arguing that Sneed completely depended on Glossip. And, due to this dependence, the prosecution argued that Glossip was in a position to coerce or order Sneed to murder Mr. Van Treese. However, there is evidence to suggest that Sneed’s relationship with Glossip may have soured at the time of the murder,<sup>906</sup> but the jury was not told about this. Glossip’s then girlfriend, Wood, recounted that Sneed “would come over [to] eat with [Glossip and D-Anna] and we would play games[,]” but then, about a month before the murder, Sneed would not return to their apartment, as if he was not allowed.<sup>907</sup>

Similarly, Glossip told Detectives Bemo and Cook that while he and Sneed “used to be good friends[,]” “[f]or the last month or so [prior to the murder], [Sneed] stayed clear away from [Glossip], Deanna [*sic*], and everybody. He pretty much just hid out.”<sup>908</sup> Glossip elaborated, “[A]bout a month ago, he got really weird. He got real distant from everybody.”<sup>909</sup> Sneed

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<sup>900</sup> *Id.*

<sup>901</sup> *Id.*

<sup>902</sup> *Id.*

<sup>903</sup> *Id.*

<sup>904</sup> *Id.*

<sup>905</sup> *Id.*

<sup>906</sup> See January 8, 1997 Police Interrogation of R. Glossip and Interview of D-Anna Wood.

<sup>907</sup> J. Gainey Interview of D. Wood at p. 21 (January 30, 1997).

<sup>908</sup> January 8, 1997 Police Interrogation of R. Glossip at p. 26:6-12.

<sup>909</sup> *Id.* at 48:3-5.



“started hanging out where [sic] some pretty bad people that I started running out of the motel. My brother’s one of them. I mean, he started hanging around a lot of bad people at that motel. . . . And I finally told him – and he didn’t like it too much, but I finally told him, ‘This is the end.’ I said, ‘You can’t keep fraternizing with these customers and shit keeps coming up.’”<sup>910</sup>

In terms of “bad people at that motel[,]” Sneed may have been spending time with Everhart – a purportedly crooked security guard<sup>911</sup> – and Richard Paige – a convicted murderer who bludgeoned someone to death.<sup>912</sup> Wood said that “the only friends that Justin had here was Cliff.”<sup>913</sup> She explained that, “[w]hen Justin stopped hanging out with us he started hanging out with Cliff, he started hanging out with Rick Page, and he started hanging out with that Lois Dan [Gann].”<sup>914</sup>

Moreover, there was ample evidence suggesting that Sneed was not dependent on Glossip, financially or otherwise:

- As noted above, Sneed stated in a media interview that, “[S]moking marijuana and, and getting a little bit of crack here and there to smoke on top of it and just um, meeting a, a couple of girls was the only reasons why I was probably staying at that motel anyway.”<sup>915</sup> This statement shows that Sneed was not staying at the motel out of financial dependence; rather he was staying for access to drugs and girls.

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<sup>910</sup> *Id.* at 26:15-25.

<sup>911</sup> D-Anna Wood recalled a time that Cliff Everhart caught a couple with drugs. The man left while the woman stayed in the room, and “Cliff wanted to negotiate with her and it was like you either cooperate or we can call the cops out here and you can go to jail it’s up to you and she would cooperate all the people would because they didn’t want to go to jail.” James Gainey asked: “[W]hat does that mean cooperate?” Wood responds: “[T]hey’d have sex with him or whatever they had to do just to keep from jail.” James Gainey Interview of D-Anna Wood at p. 6 (Jan. 30, 2017). Wood also explained: “I think the reason that Cliff did security [at the Best Budget Inn] for no money is so he could get all the drugs he wanted[.]” *Id.* at 18.

<sup>912</sup> Sneed watched Richard Paige’s dog for him at the motel in exchange for marijuana. A. Cusick Interview of Richard Paige at p. 2 (Aug. 17, 2015). Paige was sentenced to a period of incarceration in 1985 for first degree murder. See Arkansas Department of Correction Inmate Search for Richard Paige (visited on March 31, 2015). This murder involved the “bludgeoning and robbery” of an older man who later died of blunt trauma to the head. Affidavit of Captain Chuck Rexford (Apr. 5, 2000). See also J. Gainey Interview of D. Wood at pp. 22-23 (January 30, 2017).

<sup>913</sup> J. Gainey Interview of D. Wood at p. 21 (January 30, 2017).

<sup>914</sup> *Id.* at 22.

<sup>915</sup> Radical Media Interview with J. Sneed, at timestamp 00:00:17:04 (June 13, 2016).

- Barrett, who regularly visited the Best Budget Inn to deal methamphetamine, noted that Sneed bought drugs at the motel, and would trade cash and various items, such as car stereos, \$150 worth of food stamps, a Samsonite briefcase, and a nickel-plated .38 caliber handgun, for methamphetamine.<sup>916</sup> This behavior contradicts the proposition that Sneed was financially dependent on Glossip, since, according to Barrett, Sneed was not only capable of hustling up items to sell or trade but also was using those items (including his food stamps) on drugs.
- Immediately following the murder, Sneed went back to the roofers on his own, without Glossip's assistance or urging, found another place to stay beyond the Best Budget Inn motel, and worked for Brassfield Roofing.<sup>917</sup> All this indicates that Sneed knew he could have gone back to roofing at any point in time. These were all independent actions made by Sneed that did not involve or depend on Glossip. The fact that Sneed went right back to work immediately after committing a brutal murder also demonstrates his depraved character.
- As noted above, Pursley, who lived at the motel and worked at the Sinclair Gas station, said that she would often purchase food for Sneed, such that Sneed was not dependent on Glossip to survive, but manipulated people into giving him what he needed.<sup>918</sup> Also as noted above, Sneed got food and money from Hooper.
- In addition, Sneed was able to get drugs to feed his addiction, even for free, without any assistance from Glossip.

#### **4. Evidence Countering Argument That Sneed Had No Motive To Kill Mr. Van Treese**

The State argued that Sneed had no motive to kill Mr. Van Treese apart from wanting to follow Glossip's directions. The prosecution argued as follows:

So where did Justin Sneed come out on this deal? How did it help him out? He'd been contented. He'd walked away from the roofing job earlier that summer because he thought this was a

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<sup>916</sup> Affidavit of Richard Allan Barrett (Sept. 9, 2015).

<sup>917</sup> See January 15, 1997 Standard Supplement Report of Officer V. Kriethe at p. 1 (On January 14, 1997, Robert Brassfield stated that Sneed had worked for him since the murder and was staying with his son-in-law).

<sup>918</sup> May 2022 Reed Smith Interview of K. Pursley.

better way for him. What did he stand to gain besides money, which he didn't get, by killing Barry Van Treese? Nothing.

Under the facts, I suggest to only one conclusion lies and that is that he didn't do it alone, that he had help. In fact, the evidence shows that he had a planner, a motivator, a decision maker [*sic*], and that person was Richard Glossip.<sup>919</sup>

However, there is significant evidence that (1) Sneed wanted money – including to support his illegal drug habit, (2) Sneed – as did most everyone else – knew Mr. Van Treese carried cash and/or kept cash in his car, and (3) Sneed was upset with Mr. Van Treese for not paying him for his work at the motel.

#### **a. Sneed Needed Money**

First, Sneed needed money to support his drug habit. This habit led Sneed to rob people, as multiple witnesses indicated.

- Garcia said:<sup>920</sup>
  - “[Sneed] got really crazy when he ran out and needed drugs. I mean I had even told Don about an occasion where he picked up a brick and said he was going to get money.”<sup>921</sup>
  - “You couldn't turn your back on [Sneed] for a second, he'd have your money in your wallet and anything else you had in your dang pocket. And he'd say anything to girls and stuff to try to make them think that he could take over and help them make more money, and then he just take their money, all of it, every last penny.”<sup>922</sup>
  - When asked if Sneed ever talked about robbing people for money, Garcia stated: “Oh yeah, like I said he picked up a brick one time and said I'm going to get some god damn money myself because he couldn't get it out of me or

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<sup>919</sup> Trial 2 State's Closing, Vol. 15 at pp. 68:15-69:9.

<sup>920</sup> See March 2022 Reed Smith Interview of S. Garcia.

<sup>921</sup> *Id.*

<sup>922</sup> *Id.*

any other girl. We were watching him. We knew he was a thief, he'd stolen from us . . . ."<sup>923</sup>

- When asked if Sneed ever used the female dancers to lure men to rob them, Garcia responded, "Yeah, I think him and Trigger were up to some stuff like that, I really do."<sup>924</sup> Another witness, PM,<sup>925</sup> stated that Sneed described a plan Sneed and his girlfriend made to rob Van Treese, which involved the girlfriend convincing Van Treese to go to a motel room to meet her, and Sneed would either be waiting there or would go into the room after Mr. Van Treese was there to rob Mr. Van Treese.<sup>926</sup>
- Eckhart said: "I remember there was one time that Justin came into my room without asking. I think he used his key to get in. I believed he was there to try to steal something because he had been caught stealing from the rooms of other guests more than one time."<sup>927</sup>
- Spann<sup>928</sup> recalled that Sneed was a "thief" who would steal from other roofers.<sup>929</sup> He also said that "Sneed was so strung out on meth that he would do anything to get more drugs."<sup>930</sup> Spann never spoke to anyone about Glossip's case until he prepared his declaration on February 7, 2018.<sup>931</sup>
- Margaret Humphrey – a resident and employee of the Tulsa Best Budget Inn<sup>932</sup> – heard Sneed say that he was "going to rob and kill Barry[.]"<sup>933</sup> The police did not interview Humphrey, and she did not talk to anyone about Glossip's case until she was contacted by an investigator in October 2019.<sup>934</sup>

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<sup>923</sup> *Id.*

<sup>924</sup> *Id.*

<sup>925</sup> This witness requested anonymity, so we will be referring to them as "PM" throughout.

<sup>926</sup> See Affidavit of PM (Feb. 16, 2016).

<sup>927</sup> Affidavit of Tricia Eckhart (Nov. 24, 2019).

<sup>928</sup> Declaration of Jamie Spann, at p. ¶ 11 (Feb. 7, 2018).

<sup>929</sup> *Id.* at ¶ 21.

<sup>930</sup> *Id.* at ¶ 30; see also *id.* at ¶ 25 ("Justin Sneed was a dope fiend in those days. He would do anything for dope.").

<sup>931</sup> *Id.* at ¶ 32.

<sup>932</sup> Affidavit of Margaret Humphrey (Nov. 24, 2019).

<sup>933</sup> *Id.*

<sup>934</sup> *Id.*

## b. Sneed Would Have Known Mr. Van Treese Carried Cash

Second, multiple witnesses observed Mr. Van Treese carrying cash and/or storing cash in his car, including Sneed.<sup>935</sup>

- Sneed told P.M. – who was incarcerated in the Oklahoma County Jail with Sneed – that Sneed had learned from his girlfriend that Mr. Van Treese would have a large amount of cash on him the day he was killed. He told P.M. that he thought Mr. Van Treese would have \$20,000 to \$30,000 in cash. Sneed and his girlfriend thought Mr. Van Treese was rich.<sup>936</sup> P.M. was not contacted about Glossip’s case until 2016.<sup>937</sup>
- Frederick Gray – an inmate who worked at the law library at the Joseph Harp Correctional Center where Sneed was incarcerated<sup>938</sup> – indicated that Sneed told him that he had “seen all the money his boss had and devised a sinister plan to just rob his boss.”<sup>939</sup> Gray also stated, “[Sneed] had told me he fell out of Okla. County for beating his boss to death with a bat, robbing him of the cash he had flashed him and Mr. G[l]ossip. [Sneed] said, ‘He tried to talk Mr. G[l]ossip into helping him but Mr. G[l]ossip went home to his family.’ He says he (Mr. G[l]ossip’s co-defendant) had a drug problem and that’s why he wanted to rob him, so when Mr. Glossip would not help him ‘roll’ the boss he did it himself. Went got high [sic] and called Mr. G[l]ossip up to ask him to dispose of the body and clean up. Mr. G[l]ossip told him, ‘I’m in bed with my family’ and hung up on the guy. The guy was paging him so much he must

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<sup>935</sup> The fact that Mr. Van Treese carried significant amounts of cash was known by others. For example, Tricia Eckhart said that “Mr. Van Treese always carried a lot of cash. I knew this because I saw him give people loans or advances.” Affidavit of Tricia Eckhart (Nov. 24, 2019). Stephanie Garcia said that Mr. Van Treese “had money all the time” and that “it was known that Barry had money.” March 2022 Reed Smith Interview of S. Garcia. Similarly, Margaret Humphrey explained: “I was aware that Barry Van Treese carried large amounts of cash with him. This was something that everyone knew. Barry was very generous. He even gave me \$300 in cash once when I really needed it.” Affidavit of Margaret Humphrey (Nov. 24, 2019).

<sup>936</sup> *Id.*

<sup>937</sup> *Id.*

<sup>938</sup> See Oklahoma Department of Corrections Offender Search (last visited Oct. 6, 2017), at <https://okoffender.doc.ok.gov/>, 2017-10-06 \_ Sneed DOC info.

<sup>939</sup> Affidavit of Frederick Gray (Oct. 2, 2015).

have shut it off. So he tried to do it himself. He got caught and he said that Mr. G[l]ossip masterminded it.”<sup>940</sup>

- Glossip confirmed to Detective Cook that Sneed knew that Mr. Van Treese picked up money from the motel: “[H]e’s in my apartment all the time -- or was at one time. So, yeah, he does, unfortunately. He did know.”<sup>941</sup> He explained: “Justin knows whenever [Barry] comes to town, it’s for money.”<sup>942</sup>
- Eckhart said that “Mr. Van Treese always carried a lot of cash. I knew this because I saw him give people loans or advances.”<sup>943</sup>
- Garcia said that Mr. Van Treese “had money all the time” and that “it was known that Barry had money.”<sup>944</sup>
- Similarly, Humphrey explained: “I was aware that Barry Van Treese carried large amounts of cash with him. This was something that everyone knew. Barry was very generous. He even gave me \$300 in cash once when I really needed it.”<sup>945</sup>
- Officer Tim Brown stated that he knew Mr. Van Treese “to carry large amounts of cash on him.”<sup>946</sup>
- Hooper testified that Mr. Van Treese always locked his car because “he was . . . known to carry money with him, receipts from other motels or maybe from there, so he was always conscious of keeping his automobile locked.”<sup>947</sup> She also said that she knew Mr. Van Treese carried money on his person and put it in his vehicle, and she believed that Glossip and D-Anna Wood knew that as well.<sup>948</sup> The morning after the murder,

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<sup>940</sup> Letter from Frederick Gray to Reed Smith (April 28, 2022).

<sup>941</sup> January 8, 1997 Police Interrogation of R. Glossip, at p. 38:14-19.

<sup>942</sup> *Id.* at 39:2-3.

<sup>943</sup> Affidavit of Tricia Eckhart (Nov. 24, 2019).

<sup>944</sup> March 2022 Reed Smith Interview of S. Garcia.

<sup>945</sup> Affidavit of Margaret Humphrey (Nov. 24, 2019).

<sup>946</sup> January 7, 1997 Supplemental Police Report of Lieutenant Cave.

<sup>947</sup> Trial 2 Testimony of Billye Hooper, Vol. 7 at p. 25:2-9.

<sup>948</sup> Trial 2 Testimony of Billye Hooper, Vol. 8 at p. 13:9-16.

she also told Deputy Matt Steadman that “Barry Van Treese left the motel earlier this morning with several thousand dollars on him.”<sup>949</sup>

- Bowden – Mr. Van Treese’s personal accountant – explained that Mr. Van Treese carried cash because “he paid a lot of things in cash” and kept it in his car because “he’s on the road all the time.”<sup>950</sup>

### c. Sneed Was Upset About Not Being Paid

Third, some witnesses described instances in which Sneed was upset with Mr. Van Treese, including for not being paid for the work he was doing at the motel:

- Wood described an incident during the replacement of a water heater where Mr. Van Treese “pulled out his wallet in front of everybody and paid everybody except Justin[.] [E]verybody got paid but Justin didn’t get paid nothing at all[.]”<sup>951</sup> Sneed was apparently “real pissed off about it[.]”<sup>952</sup>
- Wood also explained that “Justin was mad [at Barry] because he was doing maintenance and doing housekeeping and . . . laundry just for a free room, that’s it no money, just a free room[.]”<sup>953</sup>
- Eckhart recalled overhearing Sneed talking on the phone at the motel about who she assumed was Mr. Van Treese, not long before the Christmas holiday.<sup>954</sup> She does not know who Sneed was talking to, but she clearly heard Sneed say that the motel owner was “going to get what he deserved.”<sup>955</sup>

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<sup>949</sup> January 7, 1997 Police Report of B. Bemo, at p. 1; *see also* R. Glossip Preliminary Hearing Transcript at pp. 19:23-20:2 (Hooper testified that “[W]hen the police were called in, they asked me to count the day’s receipts from the last time that Barry had been there, up until the 6th, and to my recollection, it was somewhere around \$2,800, somewhere – not quite \$3,000, but a little more than 2,800.”); Trial 2 Testimony of Billye Hooper, Vol. 7 at pp. 77:3-18, 83:19-21, 84:16-21 (Hooper testimony regarding her tally of how much money that Glossip may have given to Van Treese on January 6 when Van Treese came in to collect the money).

<sup>950</sup> April 2022 Reed Smith Interview of Van Treese’s Personal CPA Dudley Bowdon.

<sup>951</sup> J. Gainey Interview of D. Wood at p. 25 (January 30, 1997).

<sup>952</sup> *Id.*

<sup>953</sup> *Id.*

<sup>954</sup> Affidavit of Tricia Eckhart (Nov. 24, 2019).

<sup>955</sup> *Id.*

- Humphrey recalled Sneed yelling at Mr. Van Treese about not being paid.<sup>956</sup> After Mr. Van Treese left, Humphrey overheard Sneed say that he was going to “rob and kill Barry” when Mr. Van Treese came back to the Best Budget Inn for payday.<sup>957</sup> She said Sneed stated that Mr. Van Treese would “would get what was owed to him.”<sup>958</sup>

Accordingly, there is ample evidence that would have demonstrated Sneed had a motive to rob Mr. Van Treese, independent of any purported coercion by Glossip. Moreover, if this was a robbery that went bad as the evidence suggests, as opposed to a planned murder, no motive to kill would have been needed, as the killing took place during a struggle when Mr. Van Treese confronted Sneed during his robbery attempt. If Sneed was coming down from drugs and was angry at Mr. Van Treese, then that would explain the brutality of the killing more than the State’s theory that Sneed killed Mr. Van Treese because Glossip asked him to.

### **B. The Reliability Of Sneed’s Testimony**

The State admits: “This case basically rests on the testimony of Mr. Sneed.”<sup>959</sup>

Given the serious import of Sneed’s testimony then, the integrity of that testimony is of paramount importance. One of the most glaring issues with Sneed’s testimony is the fact that there is no objective evidence corroborating his account of how Glossip approached him about committing the murder, or any of their conversations regarding the murder before it occurred. We have not seen any witness testimony or other evidence corroborating Sneed’s assertion that these conversations even took place.

Additionally, in analyzing Sneed’s various versions of the events from one telling to the next, from the police interrogation to more recent interviews (and in between), it is apparent that Sneed has been unable to tell a consistent story. A witness who has made up a story will have a hard time being consistent over time, whereas a truthful person should be relatively consistent. Sneed’s account of how Glossip approached him about the murder, how he carried out the murder, and the actions they both took after the murder have been filled with

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<sup>956</sup> *Id.*

<sup>957</sup> *Id.*

<sup>958</sup> *Id.*

<sup>959</sup> ADA Fern Smith, 5-29-1998 Pre-Trial Hearing, at p. 28:20.



inconsistencies and new details added over time. The next two sections below illustrate some examples of these discrepancies.

### C. Inconsistencies In Sneed's Changing Story From One Telling To Another

As mentioned above, Sneed's story regarding important details of the murder has been inconsistent from one telling to another. If you are going to convict someone of murder and assess the death penalty based almost entirely on the testimony of a single accuser, then that testimony should be airtight and not contain such inconsistencies from one retelling to the next. Just a couple of Sneed's inconsistencies are listed below.<sup>960</sup>

#### 1. Sneed's Inconsistent Statements Regarding Drug Use

Sneed testified at the second trial that he had not touched "crank" (methamphetamine) since Christmas of 1996, implying that his drug use had nothing to do with the murder.

- Sneed: "Marijuana I was [using], but **crank I don't think I touched since before Christmas of '96.**"<sup>961</sup>
- Defense: "Now, what is crank?" Sneed: "It's methamphetamine."<sup>962</sup>

This testimony conflicts with various other statements he has made regarding drug use, both before and after Trial 2, which show that he was using drugs just before the murder.

#### July 1, 1997 Evaluation:

- A pre-trial competency evaluation from July 1, 1997 **notes that Sneed "admits to using a variety of drugs including marijuana, crank, cocaine, and acid."**<sup>963</sup>

#### Trial 1 Testimony:

- Defense: "Isn't it true that you took drugs during the time that you killed Barry Van Treese; yes or no?" Sneed: "Not during the time **but days before I had.**"  
Defense: "What kind of drugs did you take, heroin?" Sneed: "**Crank.**"<sup>964</sup>

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<sup>960</sup> For a more detailed analysis, see Appendix 5.

<sup>961</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 66:3-4.

<sup>962</sup> *Id.* at 196:18-19.

<sup>963</sup> J. Sneed Competency Evaluation (July 1, 1997).

<sup>964</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 111:21-25.

- Defense: “Explain to the jury what crack is?” Sneed: “A methamphetamine that’s cooked. That’s pretty much all that I know about it.”<sup>965</sup>

**June 13, 2016 Interview:**

- Sneed was interviewed for the documentary “Killing Richard Glossip.” Sneed: **“[I was] [p]retty much high every day I was there [at the motel].”**<sup>966</sup>
- Sneed also stated: “[S]moking marijuana and, and getting a little bit of crack here and there to smoke on top of it and just um, meeting a, a couple of girls was the only reasons why I was probably staying at that motel anyway.”<sup>967</sup>

**2. Whether Sneed Saw Mr. Van Treese On January 6, 1997**

Sneed testified in Trial 1 that he saw Mr. Van Treese in the motel office on January 6, 1997 (the day preceding the murder), he testified in Trial 2 that he did not see Mr. Van Treese at the motel on January 6, 1997.

**Trial 1:**

- Prosecution: **“Now, on the night that Mr. Van Treese was murdered on January the 7th of 1997, did you see Mr. Van Treese at the motel prior to you going to his room, 102?”** Sneed: **“Earlier that previous day, around 4:00 or 5:00.”** Prosecution: “Sometime in the late afternoon you did see Mr. Van Treese?” Sneed: “Uh-huh.” Prosecution: “And where did you see him?” Sneed: “At the motel.” **Prosecution: “What part of the motel?” Sneed: “In the office.”** Prosecution: “Who was in the office with him?” Sneed: “Richard Glossip.” Prosecution: “Now, is that the last time that you saw Mr. Van Treese before you went into his room, 102?” Sneed: “Yes, ma’am.”<sup>968</sup>

**Trial 2:**

- Prosecution: “On January 6th of 1997, did you know that Barry Van Treese was coming to the Oklahoma City motel?” Sneed: “No, I did not.” **Prosecution: “Did you ever see him, Barry Van Treese, at the Oklahoma City motel on**

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<sup>965</sup> *Id.* at 112:1-3.

<sup>966</sup> Radical Media Interview with J. Sneed, at timestamp 00:00:17:32 (June 13, 2016).

<sup>967</sup> Radical Media Interview with J. Sneed, at timestamp 00:00:17:04 (November 13, 2016).

<sup>968</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 87:12-88:2.

**January 6th, 1997?” Sneed: “No, I did not.” Prosecution: “Did you ever see him, Barry Van Treese, at the Oklahoma City motel on January 6th, 1997?” Sneed: “No, I did not.” Prosecution: “Did you ever see him in the office during his visit?” Sneed: “Not on the 6th, I did not.”<sup>969</sup>**

### **3. Whether Sneed Knew What Mr. Van Treese’s Car Looked Like**

In Trial 1, Sneed testified that he did not know what Mr. Van Treese’s car looked like, and after the murder he told Hooper that he could not identify Mr. Van Treese’s car. This testimony conflicts with his police interrogation, in which he stated that he knew where Mr. Van Treese kept his car. Sneed’s Trial 1 testimony also conflicts with his Trial 2 testimony, when he stated that he knew what kind of car Mr. Van Treese drove and where it was typically parked (and that, on the night of the murder, it was parked in front of room 102).

#### **Police Interrogation:**

- Detective Cook: **“Where did Barry keep his car?” Sneed: “Right there in front of the door.”<sup>970</sup>**

#### **Trial 1:**

- Prosecution: **“Did you know what kind of car Mr. Van Treese was driving back in January 1997?” Sneed: “No, I did not.”<sup>971</sup>**
- Sneed: “And while I was in my room, the lady that ran the first desk, I believe her name was Billye Cane, I’m not for sure, I can’t remember her name, but she called me on the phone and said that the bank—I believe you called it Weokie Credit Union, had just phoned her and said that they wanted to know if somebody could come back there and identify to see if this was Mr. Van Treese’s car. And I told her, she **asked me if I thought I could identify it, and I told her I didn’t think I could.**”<sup>972</sup>

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<sup>969</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 93:14-21.

<sup>970</sup> January 14, 1997 Police Interrogation of J. Sneed, at p. 28:4-7.

<sup>971</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 87:9-11.

<sup>972</sup> *Id.* at 98:19-99:2.

## Trial 2:

- Prosecution: **“At the time that you had seen Barry Van Treese these three times, did you—at that time did you know what kind of car he drove?”**  
Sneed: **“Yeah, I’ve seen his car.”** Prosecution: **“As we sit here today, do you remember what kind of car it was?”** Sneed: **“No. I knew what his car looked like, but I don’t know what type, make or model or anything like that.”**  
Prosecution: **“Was it a car rather than like a van or a pickup truck or?”** Sneed: **“Yes, ma’am.”**<sup>973</sup>
- Defense: **“You were familiar with [Barry Van Treese’s] car?”** Sneed: **“Yes, I was.”** Defense: **“I know it’s been some time and you probably can’t give us an exact make, model, and year, but back then you would have known his car on sight?”** Sneed: **“On sight, yes.”** Defense: **“And you were familiar where he normally parked his car when he came?”** Sneed: **“Yes.”** Defense: **“And where was that?”** Sneed: **“Normally, most of the times he parked it underneath the awning right alongside Mr. Glossip’s car.”** Defense: **“You were aware that he would on occasion spend the night at the motel?”** Sneed: **“Yes.”** Defense: **“Where would he park his car, to your knowledge, on those nights?”** Sneed: **“I don’t really remember on previous nights other than the night of the 7th.”** Defense: **“And the night of the 7th, did he park it in front of 102?”** Sneed: **“Yes, he did.”** . . . Defense: **“With his car parked in front of room 102, would that be an indication to you that he may be staying in that room or one of the rooms near that?”** Sneed: **“Yes, it was.”**<sup>974</sup>

### 4. Why Sneed Killed Mr. Van Treese

Sneed’s testimony regarding his motivations for killing Mr. Van Treese has varied over time. At times he has testified that he did so for the money. He has also testified that the money was never really on his mind (*i.e.* In Trial 1, he both testified that he agreed to kill Mr. Van Treese for the money and that the money was not on his mind). He has also testified that he did so

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<sup>973</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 77:9-19.

<sup>974</sup> Trial 2 Testimony of J. Sneed, Vol. 13 at pp. 23:20-24:16, 25:14-17.

because he saw no other option, or that Glossip scared him by raising his voice and telling him to kill Mr. Van Treese. He stated in an interview in 2000 that he agreed to kill Mr. Van Treese because he was coming down from a two-day meth run, but later stated in an interview from 2016 that he didn't know whether he did drugs two days before the murder or not.

**Police Interrogation:**

- Detective Cook: "Rich asked you to kill Barry?" Sneed: "Yes. So that he could run the motel without him being the boss." Detective Cook: "And in exchange for doing this?" Sneed: "I would get **seven grand** and (inaudible)." Detective Cook: "You get all of it or you just split it?" Sneed: "Well . . . from then on out **he said he was going to rent rooms off the books and keep money back and everything and slide me some on the side.**" Detective Cook: "So in addition you're going to get—feather your nest, so to speak?" Sneed: "Yeah."<sup>975</sup>

**Trial 1:**

- Prosecution: "Mr. Glossip make you any promises as to—what was your incentive to do it? Why did you do it, Justin?" Sneed: "Well, **he was telling me that he would give me \$7,000 and then he would rent some rooms off the books and continue to give me other money also.**"<sup>976</sup>
- Sneed: "It was never really, the money never really was on my mind for it. I was just going along with everything he said basically."<sup>977</sup>
- Prosecution: "What made you decide to do it?" Sneed: "**I really don't know. I guess I let my pride get a little bit in the way.**"<sup>978</sup>
- Sneed: "**I ended up doing it because I did not want to leave the motel at the time, yes, sir.**" Defense: "And that you were going to have to go out and get a job, right?" Sneed: "Well, I guess that would be the only thing to do if I left that motel."<sup>979</sup>

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<sup>975</sup> January 14, 1997 Police Interrogation of J. Sneed, at p. 46:9-47:3.

<sup>976</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 93:4-8.

<sup>977</sup> *Id.* at 96:13-15.

<sup>978</sup> *Id.* at 91:19-21.

<sup>979</sup> *Id.* at 111:10-15.

### January 24, 2000 Interview:

- “Sneed gave a chilling account of the murder; more graphic than his trial testimony. That evening, Glossip woke Sneed up. **Sneed was just coming down from a two-day meth run and was ‘still kind of out of it.’ This, according to Sneed, was why he gave in on this particular night to Glossip’s desire to murder Van Treese.**”<sup>980</sup>

### Trial 2:

- Sneed: “But the more [Glossip] came at it with me, you know, it started, you know, giving more and more attention to his, the way he brought it to me and, you know, I don’t know, **I just kind of got to where I really wasn’t seeing no out.**”<sup>981</sup>
- Prosecution: “Had you decided you were going to do it [the night of the murder]?” Sneed: “At that point I felt like I had no other option.” Prosecution: “You had no other option than to kill another human being?” Sneed: “Yeah.” Prosecution: “Okay. Mr. Sneed, explain that to us.” Sneed: “I don’t really know. That’s just what I felt. I just felt like, you know—**I don’t know, maybe it was just the person in me or the scare test.**” Prosecution: “**Who was scaring you?**” Sneed: “**The way Glossip was raising his voice at me and telling me to do it.**”<sup>982</sup>

### June 29, 2016 Interview:

- Sneed: “I quit talking to my little girl and started talking to my mom . . . . About god and about the way my eyes were being opened. To, you know, the reasons why I even committed the crime because **it was never, you know in my heart, about the money as it was just giving in to the dude’s will** and giving him what he wanted and him [unintel.] my mind about things that had happened to me in my past.”<sup>983</sup>

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<sup>980</sup> L. Burch and M. Haire Interview of J. Sneed (January 24, 2000).

<sup>981</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 88:6-10.

<sup>982</sup> *Id.* at 100:3-14.

<sup>983</sup> Radical Media Interview with J. Sneed, at timestamp 02:18 (June 29, 2016).

### November 17, 2016 Interview:

- Interviewer: “What was different the night that you capitulated to him?”  
Sneed: “**Well see, the, the thing about the drugs . . . .** I don’t know if it had been two days before I did drugs . . . . I don’t know if I did drugs that day.”<sup>984</sup>

### 5. Whether Sneed Meant To Kill Mr. Van Treese

In his police interrogation, Sneed at first stated that he did not want to kill Mr. Van Treese. Instead, he meant to “just knock [Barry Van Treese] out.” He also stated that “everything kind of got out of control.” This suggests Sneed just wanted to rob Mr. Van Treese, but he killed him during the ensuing struggle. However, in both trials Sneed testified that he did intend for Mr. Van Treese to die, and added in Trial 2 that he even made sure that Mr. Van Treese was not breathing before leaving the room.

#### Police Interrogation:

- Sneed: “I just only like hit him two or three times. **I figured I would just knock him out.**”<sup>985</sup>
- Sneed: “[W]hen he quit moving I kind of left him alone because I figured he was knocked out.”<sup>986</sup>
- Sneed: “[E]verything kind of got out of control . . .”<sup>987</sup>

#### Trial 1:

- Prosecution: “**Did you hit him because you intended for him to die?**” Sneed: “**Yes, I did.**” Prosecution: “And why did you intend for him to die?” Sneed: “Because Richard Glossip was telling me to go in there and kill him or asking me to go in there and kill him.”<sup>988</sup>

#### Trial 2:

- Prosecution: “**You wanted to kill him while he was asleep?**” Sneed: “**Yes.**”<sup>989</sup>

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<sup>984</sup> Radical Media Interview with J. Sneed, at timestamp 16:09:21:00 (November 17, 2016).

<sup>985</sup> January 14, 1997 Police Interrogation of J. Sneed, at p. 31:14-16.

<sup>986</sup> *Id.* at 32:24-33:1

<sup>987</sup> *Id.* at 28:11.

<sup>988</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 92:24-93:3.

<sup>989</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 102:20-21.

- Prosecution: **“Was it your intention when you went into room 102 to kill Barry Van Treese?”** Sneed: **“Yes, ma’am.”**<sup>990</sup>
- Prosecution: “Did you do anything to monitor whether or not he was still breathing?” Sneed: **“No, but just before I left I made sure that he wasn’t breathing.”** Prosecution: “How did you do that?” Sneed: “I just—I mean after I hit him a few more times and then looked at him I could tell he wasn’t breathing.” Prosecution: “Did you stand over him? Did you kneel beside him? Did you sit down? What did you do?” Sneed: **“I sat down in the chair for a few minutes** after I hit him a few more times and then, you know, I thought about everything for a second and then looked at him. I could tell that he wasn’t bleeding—or breathing. Sorry. And then that’s when I left the room.”<sup>991</sup>
- Defense: “Now, when you were talking to Detectives Bemo and Cook about your actions with Mr. Van Treese, **do you recall initially telling them that you only intended to knock him out and then later told them, ‘I intended to kill him’?**” Sneed: **“Yes.”**<sup>992</sup>

## 6. Whether Glossip Called Sneed To Wake Him Or Whether He Just Came To Sneed’s Room

Sneed has been unable to tell a consistent story as to how Glossip purportedly convinced him to go to room 102 to kill Mr. Van Treese. He said one thing in his police interrogation (Glossip came and woke him), something different in Trial 1 (Glossip called and woke him), and then a third version in Trial 2 (he didn’t hear the phone when Glossip called him).

### Police Interrogation:

- Sneed: **“And he *come* and woke me up like at three o’clock in the morning and told me that Barry had just got there.”**<sup>993</sup>

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<sup>990</sup> *Id.* at 113:9-11.

<sup>991</sup> *Id.* at 117:22-118:10.

<sup>992</sup> *Id.* at 35:11-15.

<sup>993</sup> January 14, 1997 Police Interrogation of J. Sneed at p. 25:7-9.



**Trial 1:**

- Prosecution: **“How did you two, the two of you get together at 3:30 in the morning? How did that come about?”** Sneed: **“He *called* me and woke me up . . . .”**<sup>994</sup>

**Trial 2:**

- “Prosecution: **Did he call you first?** Sneed: Well, **he asked me why I wouldn’t answer my phone because he had been trying to call me, but I just never did hear it ring.**”<sup>995</sup>

**7. Whether Or Not Sneed And Glossip Evenly Divided The Money**

The amount of money Sneed took from Mr. Van Treese’s car was a critical issue, as well as how Sneed claimed they divided the money. Dividing the money equally was critical to the State’s case because they argued that the money Glossip had when he was arrested was half the money Justin took from Mr. Van Treese. But Sneed’s story on this changed over time, from the police interrogation (they did not count or equally divide the money) to later (they counted it and divided it in half). Sneed apparently needed to change his story to fit the prosecution’s narrative, but that change illustrates that it lacks credibility.

**Police Interrogation:**

- Detective Bemo: **“So did you count the money there to see how much was in the—that he had there and then split it up equally?”** Sneed: **“No. We just kind of tossed like—like a—like a grand here and then we tossed a grand there and then we just kind of divided it like into two piles and never really counted it.”**<sup>996</sup>

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<sup>994</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 88:17-19.

<sup>995</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 94:23-95:1.

<sup>996</sup> January 14, 1997 Police Interrogation of J. Sneed at p. 37:14-22.

**Trial 1:**

- Sneed: “He come back down to my room and the money ended up only being \$4,000, and then he was wanting to split the \$4,000 with me, so I split, you know, so we ended up both walking out of my room with about 2,000.”<sup>997</sup>

**Trial 2**

- Sneed: **“I showed him that I had the money and we counted it and he decided that he wanted to take half of it.”**<sup>998</sup>

**8. Whether Sneed and Glossip Taped Up the Shower Curtain Together or Sneed Did It Alone**

Sneed stated in his police interrogation that both he and Glossip taped a shower curtain over the window in room 102. He testified in Trial 1 and Trial 2 that he taped up the shower curtain on his own. He later stated in an interview from 2016 that he taped up the shower curtain on his own, but did so under Glossip’s guidance.

**Police Interrogation:**

- Sneed: **“[W]e taped a shower curtain up over the inside of the window while we was there, yeah.”** Detective Cook: **“Both of you or just you, just him?”**  
Sneed: **“Yes. We both taped it up there.”**<sup>999</sup>

**Trial 1:**

- Prosecution: “How long did you all stay in there?” Sneed: “I don’t know, maybe for about 20 minutes, and then we left and we went in 101 and got a shower curtain, and then when **we went back in there and taped the shower curtain over the window.**” Prosecution: **“And Mr. Glossip assisted you with that?”** Sneed: **“No, basically he just watched.”**<sup>1000</sup>

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<sup>997</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 96:5-8.

<sup>998</sup> Trial 2 Testimony of J. Sneed Vol. 12 at p. 129:23-24.

<sup>999</sup> January 14, 1997 Police Interrogation of J. Sneed at p. 52:9-14.

<sup>1000</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 94:22-95:3.

**Trial 2:**

- Sneed: **“I taped, duct taped the shower curtain up.”**<sup>1001</sup>

**9. Whether Sneed or Glossip Came Up with the Idea of Taping Up the Shower Curtain**

In Trial 2, Sneed mentioned (for the first time) that it was his idea to tape a shower curtain over the window in room 102. In an interview from 2016, however, Sneed stated that it was Glossip who suggested taping up the shower curtain.

**Trial 2:**

- Prosecution: “How about the shower curtain, getting it and putting it up over the window, whose idea was it that you needed to do something to cover the window?” Sneed: “Richard. He decided that we needed to do something to try to fix the window, which, you know, was really no argument there because that was kind of, you know, the window needed to be fixed and all of that. And so we went over to 101 and we was looking for something to be able to cover the window up and **that’s when I walked back into the bathroom part of that room and told him, I said, ‘Well, how about we just take this shower curtain?’**”<sup>1002</sup>

**November 17, 2016 Interview:**

- Sneed: **“[Glossip is] the one that suggested about tearing down, uh, a shower curtain** to tape it up over the window, um, that had been broken.”<sup>1003</sup>

**10. Whether Sneed and Glossip Divided Up Their Duties Regarding The Murder**

In Trial 1, Sneed testified that he and Glossip did not plan out their roles in the murder. However, in Trial 2, Sneed acknowledged that he told police that it was his job to “take out” Mr. Van Treese and it was Glossip’s to “clean up the mess.” In a 2016 interview, Sneed stated that Glossip “had everything planned out” and that he asked Glossip for further instructions after the murder.

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<sup>1001</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 130-:7.

<sup>1002</sup> *Id.* at 132:1-11.

<sup>1003</sup> Radical Media Interview with J. Sneed, at timestamp 15:59:54:00 (November 17, 2016).

**Trial 1:**

- Prosecution: **“Did you and Mr. Glossip ever have any discussion concerning whose job was to be what?”** Sneed: **“No, basically it was just wanting me to do everything.”**<sup>1004</sup>

**Trial 2:**

- Prosecution: **“You tell [the officer] it was your job to take out Barry Van Treese and Richard Glossip’s job to clean up the mess?”** Sneed: **“Yes, ma’am.”** Prosecution: **“And he didn't do a very good job?”** Sneed: **“Yes, ma’am.”** Prosecution: **“And that was on January 14th, 1997?”** Sneed: **“Yes, ma’am.”**<sup>1005</sup>

**November 17, 2016 Interview:**

- Interviewer: **“You all didn’t have a plan?”** Sneed: **“Well now, I didn’t have a plan, because, because he kept presenting it to me. Um, I can only assume in my mind that he, um, had everything planned out.** That’s why I went back to him and I asked him what he wanted to do now.”<sup>1006</sup>

**XIX. Sneed Embellished His Story Over Time**

There are several significant instances where Sneed added new details to his story regarding Glossip. The paragraphs below summarize the ways in which his narrative has shifted over time since his police interrogation, starting in Trial 1 and continuing through the present.

**A. Sneed Brings Up The Boiler Room Incident For The First Time In Trial 2**

In Trial 2, for the first time, Sneed mentioned an incident where Glossip asked him to kill Mr. Van Treese in the motel’s boiler room.

**Trial 2:**

- Sneed: **“[Barry Van Treese]’s adjusting the door [in the boiler room] and me and Glossip is walking back and forth checking the TV. And that’s when, you**

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<sup>1004</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 97:2-4.

<sup>1005</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 190:1-7.

<sup>1006</sup> Radical Media Interview with J. Sneed, at timestamp 15:59:04:00 (November 17, 2016).

**know, Glossip is constantly asking me, you know, why don't I do it now, why don't I do it right now, why don't I just take that little hammer and knock him over the head with it.**"<sup>1007</sup>

**B. Sneed Said Glossip Wanted Him To Kill Mr. Van Treese Every Time Mr. Van Treese Showed Up For The First Time in Trial 1**

In Trial 1, Sneed mentioned for the first time that, every time Mr. Van Treese showed up at the motel, Glossip asked Sneed to kill Van Treese.

**Trial 1:**

- Sneed: **"Every time that Mr. Van Treese showed up, [Glossip] was wanting me to kill him."** Prosecution: "About how many times was that?" Sneed: About five or six times."<sup>1008</sup>

**C. Sneed Adds New Details To The Story About The Conversation With Glossip On The Night Of The Murder**

Over time, Sneed has added new details to the story about conversation he had with Glossip on the night of the murder, when Glossip asked him to kill Mr. Van Treese. The only details that Sneed mentioned about this conversation in his police interrogation were that Glossip said (1) that he had just seen Mr. Van Treese's car pull in, and (2) that Mr. Van Treese "was sitting on like \$7,000." In Trial 1, Sneed testified for the first time that one of the reasons Glossip asked him to kill Mr. Van Treese was that they were going to be kicked out of the motel. In Trial 2, Sneed testified for the first time that Glossip also wanted to kill Mr. Van Treese because, after seeing that certain rooms were not remodeled, Mr. Van Treese was going to fire Glossip. In a September 2015 interview, Sneed stated, for the first time, that Glossip told Sneed to think of what he could do with the money for his daughters, and that Sneed should take out his "aggression" regarding his step-brother by killing Mr. Van Treese. In a November 2016 interview, Sneed stated, for the first time, that Glossip told Sneed to take out his emotions regarding his step-brother through the murder.

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<sup>1007</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 86:8-12.

<sup>1008</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 89:18-21.

### Police Interrogation:

- Sneed: “And we come and woke me up like at three o’clock in the morning and told me that Barry had just got there. And that—he told me that he knew where the money was and that he was sitting on like \$7,000. And so we went into the room.”<sup>1009</sup>
- Sneed: “And then he come and woke me up at three o’clock in the morning and said that he had just seen his car pull in. And he said he was going back up to the front desk and for me to go in and get his car keys because he said he would know where the money was and everything.” 27:12-21.

### Trial 1:

- Sneed: “[H]e was trying to tell me that **I was going to get kicked out of the motel and that he was going to get kicked out of the motel.** And then he basically just told me that if he was me, he would **take a baseball bat, which I had in my room, and just go rush him while he was asleep.**”<sup>1010</sup>

### Trial 2:

- Sneed: “[Glossip] told me . . . if Mr. Van Treese got up in the morning and walked around the motel how he was, you know, **once he seen a couple of the rooms that were already supposed to be remodeled that weren’t that he was going to get fired. And then he started threatening me a little bit saying that he was going to throw me out and I was going with him.**”<sup>1011</sup>

### September, 21 2015 Interview:

- “Yeah, because that’s—because of the irateness he was when he came to my room . . . And he was trying to pick every little vulnerability thing out of me. And everything from continuing to offer me money, to getting me to **build my rage on the fact that my older brother had left me there,** to the fact that—of think about **what I could do with the money for my daughters . . .**”<sup>1012</sup>

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<sup>1009</sup> January 14, 1997 J. Sneed Police Interrogation at p. 25:7-12.

<sup>1010</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 90:17-22.

<sup>1011</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at pp. 95:18-96:4.

<sup>1012</sup> C. Aspinwall Interview of J. Sneed at p. 11:3-12 (September 15, 2015).

### November, 17 2016 Interview:

- Interviewer: “Why were you not able to say no to Glossip?” Sneed: “I told him no over and over and over, and that’s why I struggle, um . . . when he came to me that last night, and talking about, well, let’s do it now, or get out, or just take everything out that anybody had ever done to you. **Because he seen my emotions and my dislike towards my stepfather.**”<sup>1013</sup>

#### D. In Trial 2, Sneed Adds that Glossip Took a Hundred Dollar Bill from Mr. Van Treese’s Wallet

Whereas Sneed only mentioned that he and Glossip peeked into room 102 after the murder in his police interrogation, he testified for the first time in Trial 2 that they both entered the room and Glossip took a hundred dollar bill out of Mr. Van Treese’s wallet.

### Police Interrogation:

- Detective Cook: “Okay. And then the two of you go back downstairs and you say to check on Barry?” Sneed: “Yeah. **We went and peeked the door open to see if he got up or anything.**”<sup>1014</sup>

### Trial 1:

- Prosecution: “**How long did you all stay in there?**” Sneed: “**I don’t know, maybe for about 20 minutes . . .**”<sup>1015</sup>

### Trial 2:

- Prosecution: “So you go in, and what happened once you got inside the room?” Sneed: “He looked around and then he was like, okay, we need to find his car keys to be able to move his car, then **I found his car keys in his pocket and also his wallet, and he opened Mr. Van Treese’s wallet and seen that a hundred dollar bill was in there and he took that out,** and then he told me to move the car around to the bank parking lot and the money I was looking for would be under the front seat of Mr. Van Treese’s car.”<sup>1016</sup>

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<sup>1013</sup> Radical Media Interview with J. Sneed, at timestamp 16:05:55:00 (November 17, 2016).

<sup>1014</sup> January 14, 1997 Police Interrogation of J. Sneed, at p. 45:3-45:8.

<sup>1015</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 94:22-23.

<sup>1016</sup> Trial 2 Testimony of J. Sneed, Vol. 12 at pp. 123:22-124:6.

- Defense: “Did you tell Detectives Bemo and Cook that [Glossip] had taken a hundred-dollar bill?” Sneed: “During the interview, no, I don’t think I did.”<sup>1017</sup>

**E. Sneed Brings Up The Fact That He Got The Shower Curtain From Room 101 For The First Time In Trial 1**

Sneed mentioned for the first time in Trial 1 that the shower curtain he hung up in room 102 was retrieved from room 101.

**Trial 1:**

- Sneed: “I don’t know, maybe for about 20 minutes, and then we left and we went in 101 and got a shower curtain, and then when **we went back in there and taped the shower curtain over the window.**”<sup>1018</sup>

**F. Sneed Brings Up the Fact that Glossip Wore Gloves for the First Time in Trial 2**

Sneed mentioned for the first time in a November 2016 interview that Glossip wore gloves while directing Sneed to tape up the shower curtain.

**November 17, 2016 Interview:**

- Interviewer: “Did he wear gloves?” Sneed: “**Um, yeah, he had some gloves on. But then he was also making sure that I touched everything, you know what I mean, and I hung the curtain up.**”<sup>1019</sup>

**G. Sneed Brings Up Glossip’s Request for Trash Bags, A Hack Saw, and Muriatic Acid for the First Time in Trial 1**

Whereas Sneed only mentioned that Glossip asked him to get Plexiglass from the store in his police interrogation, he testified for the first time in Trial 1 that Glossip also asked him to get trash bags, a hack saw, and muriatic acid.

**Police Interrogation:**

- Sneed: “[Glossip] asked me to go down to Payless and get a piece of Plexiglas so we could cover that hole that was broke . . .”<sup>1020</sup>

<sup>1017</sup> Trial 2 Testimony of J. Sneed, Vol. 13 at p. 44:9-11.

<sup>1018</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 94:23-95:1.

<sup>1019</sup> Radical Media Interview with J. Sneed, at timestamp 16:30:32:00 (November 17, 2016).

<sup>1020</sup> January 14, 1997 Police Interrogation of J. Sneed, at p. 51:3-5.



## **Trial 1:**

- Sneed: “[W]hile I was going to Payless, **Mr. Glossip also informed me to pick up some trash bags, a hack saw and I believe some acid that you call muriatic acid.**”<sup>1021</sup>

### **XX. The Jury Was Not Presented Evidence that Sneed Would Have Known Facts Irrespective of Glossip and Not Exclusively from Glossip as the State Presented**

The State claimed that Sneed knew details that he only could have been told by Glossip, and this was proof that Glossip was involved and masterminded the murder. But evidence showing that Sneed could have learned these facts from other sources, besides Glossip, was not presented to the jury.

#### **A. Sneed Could Have Known Of Mr. Van Treese’s Location And Cash Without Glossip Telling Him**

The State’s theories relied on the notion that Sneed only knew about Mr. Van Treese’s tendency to carry large amounts of cash, as well as Mr. Van Treese’s location on the night of the murder, because Glossip shared that information with him. There is evidence, however, showing that Sneed had independent knowledge of these things, as discussed below. In fact, Sneed testified explicitly in Trial 2 that he could have identified Mr. Van Treese’s location on the night of the murder given the fact that he saw Mr. Van Treese’s car parked in front of room 102 beforehand. Additionally, there is evidence showing that Mr. Van Treese’s tendency to carry cash was well known around the Best Budget Inn and beyond, and that Sneed could easily have found the cash by ransacking Mr. Van Treese’s car. This evidence directly contravenes the notion that Sneed did not have a potential motive or enough information to commit the murder on his own. This evidence was never fully developed with the jury.

#### **B. Sneed Could Have Known About Mr. Van Treese’s Cash Without Glossip**

As discussed in further detail in Section XVIII above, it was well known that Mr. Van Treese carried large volumes of cash. Multiple witnesses observed Mr. Van Treese carrying and storing cash in his car. As considered in Section XVIII, Hooper, Everhart, Officer Brown, and Bender all

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<sup>1021</sup> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 96:20-22.

mentioned in their various statements that Mr. Van Treese was known to carry large amounts of cash on him.<sup>1022</sup> These statements indicate that Glossip was not the only person to know of Mr. Van Treese's propensity to carry cash as Sneed could have learned firsthand or via another source.

Additionally, Sneed could have discovered the location of the money by rummaging through the car. As discussed below, Sneed was able to recognize Mr. Van Treese's car and knew where he usually parked. Photos taken of Mr. Van Treese's car after the murder show that it appears ransacked as objects were strewn all over the seats and floor of the car.<sup>1023</sup> Since Sneed likely was aware Mr. Van Treese carried cash on him at all times (as examined in Section XVIII), Sneed easily could have gone through the car after the murder in search of the money. Sneed may not have known the precise location of the money in the car, but he was aware that the money was most likely located somewhere in the car.

### **C. Sneed Knew Without Glossip That Mr. Van Treese Was Staying In Room 102**

In Trial 2, Sneed specifically testified that he remembered that Mr. Van Treese parked in front of room 102 on the night of the January 7, 1997.<sup>1024</sup> Sneed also testified that, at the time of the murder, he could have recognized Mr. Van Treese's car on sight and was familiar with where Mr. Van Treese normally parked his car.<sup>1025</sup> The defense asked, "With [Van Treese's] car parked in front of room 102, would that be an indication to you that he may be staying in that room or one of the rooms near that?" Sneed answered, "Yes, it was."<sup>1026</sup>

The testimony of other witnesses has also indicated that Sneed had independent knowledge about Mr. Van Treese's location. For example, in Trial 2, Williams testified, "[Sneed] said room 102 is where the owner stayed when he comes to town."<sup>1027</sup> Likewise in Trial 2, Wood testified that Sneed came to the motel office shortly after Mr. Van Treese picked up the keys to

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<sup>1022</sup> See Section XVIII.A.4 (Evidence Countering Argument that Sneed Had No Motive to Kill Mr. Van Treese).

<sup>1023</sup> Police Department City Garage Photos of Mr. Van Treese's Vehicle.

<sup>1024</sup> Trial 2 Testimony of J. Sneed, Vol. 13 at p. 24:14-16.

<sup>1025</sup> *Id.* at 23:20-24:6.

<sup>1026</sup> Trial 2 Testimony of J. Sneed, Vol. 13 at p. 25:14-16.

<sup>1027</sup> Trial 2 Testimony of J. Williams, Vol. 8 at p. 124:18-19.

room 102 shortly after the murder.<sup>1028</sup> Given that the room 102 key was hanging on a board in the office,<sup>1029</sup> it is possible that Sneed could have seen that the key was gone and confirmed that Mr. Van Treese was staying in room 102.

In sum, the evidence does not support the theory that Sneed lacked the knowledge needed to know that Mr. Van Treese had cash in his car, and certainly does not support the argument that he needed Glossip to tell him where to find the money.

#### **D. Statements By Sneed To Others After The Murder Show Glossip Was Not Involved**

Outside of the police investigation and trial, Sneed gave multiple differing accounts of his role in the murder. These accounts contradict Sneed's statements to police that Glossip was involved and his testimony to that effect at trial. Given that Sneed spoke to multiple people *after* the murder, the fact that there is no evidence that relayed to anyone *before* the murder his story that Glossip had been talking to him for months about killing Mr. Van Treese is telling. We believe this demonstrates that Glossip did not make any such comments. In any event, the chart below contains a sample of the many witnesses who came forth to describe the contradictory statements Sneed made after the trial.<sup>1030</sup>

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<sup>1028</sup> Trial 2 Testimony of D. Wood, Vol. 5, at p. 149:13-20.

<sup>1029</sup> D-Anna Wood testified in Trial 2 that Van Treese took the key off a board in the motel office on the night of the 7th. Trial 2 Testimony of D. Wood, Vol. 5 at pp. 78:23-79:5.

<sup>1030</sup> For the full list of witnesses that Sneed spoke to about the murder and his statements to such witnesses, see Appendix 6.

Witness	Statement by Justin Sneed
Terry Allen Cooper (Inmate at Oklahoma County Jail with Sneed and Glossip)	Sneed told Cooper that he was afraid the state would give him the death penalty and that he needed Cooper’s help to “lay it all on Rich . . .” <sup>1031</sup>
Fred McFadden (inmate at the Dick Connors Minimum Security Unit)	McFadden heard Sneed “bragging” with a “lack of remorse” about the murder. <sup>1032</sup>
Joseph Tapley (Justin Sneed’s cellmate at Oklahoma County Jail)	Tapley is “sure that Justin Sneed acted alone.” Sneed never gave Tapley any indication that someone else was involved and never mentioned the name Richard Glossip. <sup>1033</sup>  Sneed was very concerned about getting the death penalty; Tapley believes signing for a life sentence was the only thing that mattered to him. <sup>1034</sup>
P.M. (incarcerated at Oklahoma County Jail)	During all that time in 1997-1998 when they were incarcerated together, Sneed never mentioned Glossip’s name; Sneed never said he was hired by anyone to rob or kill Mr. Van Treese for money; Sneed’s story only ever involved the girlfriend and stayed the same – it was a robbery gone messy. <sup>1035</sup>

<sup>1031</sup> Declaration of Terry Allen Cooper (May 3, 2018).

<sup>1032</sup> Letter from Fred McFadden to Bob Macy (May 8, 1997).

<sup>1033</sup> Affidavit of Joseph Tapley (Sept. 21, 2015).

<sup>1034</sup> *Id.*

<sup>1035</sup> Affidavit of P.M. (Feb. 16, 2016).

Witness	Statement by Justin Sneed
<p>Roger Lee Ramsey (incarcerated at Oklahoma County Jail)</p>	<p>Sneed said it was a robbery that went wrong and he ended up stabbing and beating the man to death. He beat him with a ball bat. Sneed said the man he killed did not want to give his money up.<sup>1036</sup></p> <p>Sneed never mentioned Glossip paying him or hiring him to commit the crime. Sneed did mention the name “Richard” in the context of saying that was the person he pointed the finger to in this crime. Sneed said he was mad at Glossip so he was blaming him for the crime.<sup>1037</sup></p>
<p>Frederick Gray (inmate/law clerk at Joseph Harp Correctional Center in Lexington, Oklahoma.)</p>	<p>Sneed came back to rob his boss on his own account. Things got out of hand and Sneed killed Mr. Van Treese. He wanted to cover it up, but he needed help. Sneed’s fall partner would not come to his aid because Sneed would not tell him the urgency of his call.<sup>1038</sup></p> <p>Gray asked Sneed if he acted alone and he affirmed.<sup>1039</sup> In discussing his “fall partner,” Sneed said, “Since he wouldn’t help me in my need, I’ll see if I can get some revenge on him and I testified for an L-WOP [life imprisonment without the possibility of parole] against him; he got death.”<sup>1040</sup> Sneed stated, “The killing thing about it is, I told them he hired me to kill our boss which was a lie.”<sup>1041</sup></p>

<sup>1036</sup> Affidavit of Roger Lee Ramsey (Jun. 11, 2016).

<sup>1037</sup> *Id.*

<sup>1038</sup> Affidavit of Frederick Gray (Jan. 18, 2016).

<sup>1039</sup> *Id.*

<sup>1040</sup> *Id.*

<sup>1041</sup> *Id.*

Witness	Statement by Justin Sneed
Michael Scott (incarcerated with Sneed at Joseph Harp Correctional Facility)	Scott clearly heard Sneed say that “in his statements and testimony, he set Richard Glossip up, and that Richard Glossip didn’t do anything.” <sup>1042</sup>  Scott also stated that he remembered “Justin . . . laughing . . . about setting Richard Glossip up for a crime Richard didn’t do. It was almost like Justin was bragging about what he had done to this other guy . . . . Justin was happy and proud of himself for selling Richard Glossip out.” <sup>1043</sup>

**XXI. Defense Counsel’s Cascade Of Errors And Missed Opportunities**

Based on the investigation findings, numerous missteps were revealed by Glossip’s defense counsel during both trials. ABA Standard 4-1.3 states that “defense attorneys have a duty to be well-informed regarding the legal options and development that can affect a client’s interests during a criminal representation.”<sup>1044</sup> In both Glossip trials, defense counsel failed to use probative evidence and elicit necessary testimony that impacted Glossip’s criminal representation. Glossip’s defense counsel committed the following missteps, among others, in their representation of Glossip:

- Defense counsel failed to utilize the Sneed interrogation videotape to show the jury that the police contaminated the Sneed interview by eliciting Sneed to mention Glossip’s name and did not utilize an expert like Dr. Leo to challenge the interrogation tactics.

<sup>1042</sup> Affidavit of Michael Scott (Sept. 20, 2015).

<sup>1043</sup> *Id.*

<sup>1044</sup> American Bar Association Standard 4-1.3(e); *see also Glossip v. Okla.*, CF 1997-244, 10 (Okla. D. Ct. Mar. 12, 2001) (“[T]he defense attorney should enter every trial knowing the facts and law better than anyone else in the courtroom . . . you should come to the courtroom with a ‘prepared’ theory of your case . . . . *Jurors should feel they can trust what you say about the case . . . . DON’T promise more than you can deliver.*”).

- Defense counsel failed to raise the destruction of evidence issue in Trial 2.
- Defense counsel elected not to mention the missing Sinclair gas station video from the police investigation.
- Defense counsel was ineffective in his cross-examination of Everhart. Defense counsel failed in to elicit testimony from Everhart regarding his various inconsistent statements and conflicts of interest.
- Defense counsel did not have an expert witness testify to the effects of Sneed's meth use.
- Defense counsel did not push harder to get the Sinclair videotape and then did not address the lack of the tape during trial.
- Defense counsel did not try to counter the State's use of the posters with their own demonstratives.
- Defense erred in not calling Glossip – jurors expressly stated they wanted to hear from him and viewed it negatively.
- Defense counsel failed to recognize the seriousness of the destruction of evidence problems either with the court or in the presentation of evidence; they should have made a big deal about it with the police witnesses and in arguments.
- Defense counsel did not make sure the proper jury instructions were given, and then appellate counsel did not challenging the jury instructions.
- Defense counsel did not present the full context regarding Sneed to counter he was not meek or Glossip's "puppet."
- Defense counsel failed to present the criminal prosecutions of Everhart and his unreliable testimony.
- Defense counsel was not prepared to deal with the Bender hearsay testimony.
- Defense counsel underestimated the persuasiveness of the State's motive theories and did not attack the obvious problems with the embezzlement motive theory and disrepair motive theory.
- Defense counsel did not point out for the jury the inadequate police investigation through cross examination of police detectives and technical investigators (for

example, they failed to catch mistakes that the police made regarding the shower curtain).

- Defense counsel failed to call any witnesses in the guilt phase of the trial.

## **XXII. Parole Board Member's Conflict Of Interest Made The Clemency Hearing Fundamentally Unfair**

The investigation identified significant conflicts of interest that call into question the Oklahoma Pardon and Parole Board's impartiality in Glossip's clemency hearing. Glossip's clemency hearing before the Parole Board took place on October 24, 2014. The Parole Board members present at the hearing were Chairman Marc Dreyer, Vanessa Price, Patricia ("Patty") High, Richard Dugger, and Lynnell Harkins.<sup>1045</sup>

Nearly every member of the Parole Board had a prior law enforcement or prosecution background.<sup>1046</sup> Most troubling, however, was the participation of Assistant District Attorney High, who served as a senior criminal felony prosecutor in the Oklahoma County District Attorney's office for eighteen years. One of the lead prosecutors against Glossip, former Assistant District Attorney Smothermon, confirmed she "tried many cases with Patty."<sup>1047</sup> The fact that High did not recuse herself is particularly problematic given that she was in District Attorney Bob Macy's office during the same years Glossip was prosecuted, and worked closely on other cases with Smothermon.<sup>1048</sup> Upon hearing this fact of High's involvement in the Glossip clemency hearing, former District Attorney Gary Ackley acknowledged "it probably doesn't look good to have a former prosecutor from that office on the board to hear the clemency."<sup>1049</sup>

Board member High's lack of impartiality was evident as soon as Glossip appeared via videoconference. In the twenty minutes allotted for Glossip to appear before the Pardon and

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<sup>1045</sup> High was the senior criminal felony prosecutor in the Oklahoma County DA's office from 1989 to 2007. Glossip's first trial was in 1999, and his second in 2004. Price was the Division Director of the National Drug Court Institute. Dr. Dreyer was a former DEA Agent until he decided to go into ministry. .

<sup>1046</sup> Chairman Dreyer, appointed to the Parole Board by former Governor Mary Fallin in 2011, was a prior Drug Enforcement Administration Agent for eleven years. Price, also appointed by former Governor Fallin in 2014, was a police officer in Oklahoma City for twenty-two years. Similarly, Dugger, appointed to the Parole Board in 2004 by the Oklahoma Court of Criminal Appeals, served as a district attorney for the Second Judicial District in Western Oklahoma from 1972 to 1988 and 1991 to 2022.

<sup>1047</sup> May 2022 Reed Smith Interview of C. Smothermon.

<sup>1048</sup> *Id.*

<sup>1049</sup> June 2022 Reed Smith Interview of G. Ackley.



Parole Board, High asked Glossip 24 cross-examination-type questions about his after-the-fact conduct.<sup>1050</sup> Only one other board member asked questions of Glossip spanning less than forty-five seconds.<sup>1051</sup>

High's participation on the Parole Board in connection with Glossip's case, a case from Oklahoma County, seems inappropriate given her close ties to the Oklahoma County District Attorney's office and the lead prosecutor that tried Glossip. Additionally, prior to her appointment on the Parole Board by Governor Fallin in 2014, High served as a special prosecutor in death penalty cases at the Oklahoma County District Attorney's office. High served in this capacity at the Oklahoma District Attorney's Office during Glossip's first and second trials. Assistant District Attorney High's involvement with or knowledge of Glossip's case could have likely extended beyond the clemency hearing. Given these facts, High should have recused herself from Glossip's clemency hearing. At the very least, defense counsel should have raised this fact for the record and the Parole Board to consider.

We also note that Glossip was only allowed to attend his own 20-minute presentation via videoconference and was prohibited from observing the rest of the clemency hearing. The Oklahoma Death Penalty Review Commission's Report issued in 2017 offered four key recommendations.<sup>1052</sup> One such recommendation concerned the condemned inmate's right to listen to and watch the entire presentation of their clemency petition before the Parole Board.<sup>1053</sup> We agree with the Report's recommendation and finding that, "[g]iven the import of clemency proceedings on death row inmates, the entire capital clemency process should be accessible to condemned inmates. They should not be restricted to joining, via closed-circuit television, only a limited portion of their clemency hearing."<sup>1054</sup> The Commission further recognized the importance of providing condemned inmates the "full opportunity to witness and comprehend the entire proceedings and to advocate on their own behalf at their clemency hearing."<sup>1055</sup>

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<sup>1050</sup> October 24, 2014 Clemency Hearing Transcript, at part 4, pp. 3-8.

<sup>1051</sup> Chairman Dreyer asked Glossip two brief questions. *Id.* at 8.

<sup>1052</sup> The Report of the Oklahoma Death Penalty Review Commission at pp. 171-172 (2017).

<sup>1053</sup> *Id.* at 172.

<sup>1054</sup> *Id.*

<sup>1055</sup> *Id.*

Four years after the issuance of the Report, and seven years after Glossip's Clemency Hearing, Oklahoma enacted Administrative Code section § 515:10-5-3, providing the offender with the "option to listen to and watch, via one-way video transmission, the entire presentation of their clemency petition."<sup>1056</sup> Glossip's inability to attend all of his own clemency hearing was undoubtedly prejudicial as it prevented him from understanding the context of the proceedings and advocating on his behalf, as recognized by the Commission in 2017 and by the State of Oklahoma in 2021.

Former Assistant District Attorney High's failure to recuse herself, and her failure to notify the Board of her close ties to the lead prosecutor in Glossip's case raise serious concerns as to the overall fairness of the 2014 clemency hearing.

### **XXIII. Conclusion**

Based on the findings of this independent investigation, including the State's destruction of evidence, we conclude that the 2004 trial cannot be relied on to support a murder-for-hire conviction. Nor can it provide a basis for the government to take the life of Richard E. Glossip.

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<sup>1056</sup> O.A.C. § 515:10-5-3.

## **APPENDIX 1**

### Key Witnesses Reference Sheet

Name	Description
Beavers, John	Resident at the Best Budget Inn in Oklahoma City at the time of the murder.
Bemo, Bob	Detective for the Oklahoma City Police Department. One of the lead detectives for the Van Treese homicide investigation.
Bender, William	Manager of the Best Budget Inn in Tulsa.
Bowden, Dudley	Certified Public Accountant employed by Mr. Van Treese from 1988 to 1997.
Brown, Tim	Oklahoma City Police Department officer.
Choi, Chai	Medical Examiner for the State of Oklahoma.
Cook, Bill	Detective for the Oklahoma City Police Department. One of the lead detectives for the Van Treese homicide investigation.
Everhart, Cliff	Former police officer and Oklahoma Indigent Defense System investigator; provided security for the Best Budget Inn.
Fiely, John	Detective in the Oklahoma City Police Department.
Glossip, Richard	Manager of the Oklahoma City Best Budget Inn. Convicted of murder.
Hogue, Janet	Detective for the Oklahoma City Police Department.
Hooper, Billye	Day desk clerk at Best Budget Inn.
O'Leary, Michael	Oklahoma City Police Department officer.
Prittie, John	Guest at the Best Budget Inn the night of the murder. Stayed in room 103.
Pursley, Kayla	Resident at Best Budget Inn and worked at the Sinclair Gas Station.
Pursley, Michael	Resident at the Best Budget Inn in Oklahoma City. Husband of Kayla Pursley.
Sneed, Justin	Maintenance man at the Best Budget Inn in Oklahoma City. Killed Mr. Van Treese.

Name	Description
Van Treese, Barry	Owner of the Best Budget Inn; murdered on January 7, 1997.
Van Treese, Donna	Wife of Mr. Van Treese.
Van Treese, Kenneth	Brother of Mr. Van Treese.
Williams, Jackie	Housekeeper and resident at the Best Budget Inn.
Wood, D-Anna	Girlfriend of Richard Glossip at the time of the murder; lived at the Best Budget Inn.

## **APPENDIX 2**

Dr. Richard A. Leo, Ph.D., J.D.  
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May 27, 2022

David E. Weiss,  
Attorney at Law  
Reed Smith LLP  
101 Second Street, Suite 1800  
San Francisco, CA 94117

**Re: Richard Glossip – Independent Review by Reed Smith LLP at the request of the Ad Hoc Investigation Committee Re State v. Richard Glossip**

Dear Mr. Weiss,

This report is per your request in the above-referenced independent review being conducted by Reed Smith LLP at the request of the Ad Hoc Investigation Committee Re *State of Oklahoma v. Richard Glossip*. This report is an update and supplement to my prior report (dated September 9, 2015) that was attached as Appendix B to the Successive Application for Post-Conviction Relief, filed with the Court of Criminal Appeals of the State of Oklahoma in *Richard Glossip v. State of Oklahoma*, Post Conviction Case No. PCD-2015-820.

### **I. Qualifications**

I am the Hamill Family Professor of Law and Psychology at the University of San Francisco, and formerly an Associate Professor of Psychology and an Associate Professor of Criminology at the University of California, Irvine. My areas of research, training, and specialization include social psychology, criminology, sociology, and law. For over thirty (30) years, I have conducted and published extensive empirical research on police interrogation practices, the psychology of interrogation and confessions, psychological coercion, police-induced false confessions, and erroneous convictions. In the last three decades, I have observed, studied and analyzed thousands of interrogations and confessions; I have researched, written, and published numerous peer-reviewed articles on these subjects in scientific and legal journals; and I have written several books on these subjects, including *Police Interrogation and American*

*Justice* (Harvard University Press, 2008) and *Confessions of Guilt: From Torture to Miranda and Beyond* (Oxford University Press, 2012).

I am regarded as a national and leading expert on these topics, and I have won numerous individual and career achievement awards for my scholarship and publications. My scholarship has often been featured in the news media and cited by appellate courts, including the United States Supreme Court, on multiple occasions. To date, I have consulted with criminal and civil attorneys on more than two thousand two hundred (2,200) cases involving disputed interrogations and/or confessions, and I have been qualified and testified as an expert witness three hundred ninety-three (393) times in state, federal, and military courts in thirty-eight (38) states and the District of Columbia, including thirty-seven (37) times in federal and military courts. I have given many lectures to judges, defense attorneys, prosecutors, and other criminal justice professionals, and I have taught interrogation training courses and/or given lectures to police departments in the United States, China, and the Republic of Cyprus. My qualifications and expertise are summarized in greater detail in my curriculum vitae, which is attached to this report.

## **II. Materials Reviewed**

In conjunction with my preparation of this report, I have reviewed the following materials:

- Statement of Independent Investigation Regarding *State v. Glossip* from Representative Kevin McDugle (Undated)
- Interrogation Video/Audio of Richard Glossip (1/8/97), Part 1
- Interrogation Video/Audio of Richard Glossip (1/8/97), Part 2
- Transcript of Interrogation Video/Audio of Richard Glossip (1/8/97)
- Interrogation Video/Audio of Richard Glossip (1/9/97)
- Transcript of Interrogation Video/Audio of Richard Glossip (1/9/97)
- Interrogation Video/Audio of Justin Sneed (1/14/97), Part 1
- Interrogation Video/Audio of Justin Sneed (1/14/97), Part 2
- Interrogation Video/Audio of Justin Sneed (1/14/97), Part 3



- Transcript of Interrogation Video/Audio of Justin Sneed (1/14/97)
- Supplemental Police Reports (January 9, 1997). Bates Stamped: LWW 10128-10131
- Supplemental Police Report (January 24, 1997). Bates Stamped: LWW21467
- Petition for Writ of Habeas Corpus, *Richard Glossip v. Marty Sirmons, Warden*, Case No. CIV-08-326-HE (November 3, 2008)
- Letter from Gary L. Ackley (Assistant District Attorney) to Pardon and Parole Board (Dated October 8, 2014)
- Report of Dr. Richard A. Leo (Dated September 9, 2015)

### **III. Overview**

Based on my review of the above materials, it is my professional opinion that:

- 1) As is evident from their interrogations of both Richard Glossip and Justin Sneed, Detectives Bemo and Cook immediately presumed the guilt of Richard Glossip in the murder of Barry Van Treese;
- 2) Detectives Bemo and Cook's presumption of Richard Glossip's guilt in the murder of Barry Van Treese was premature because there was insufficient investigation or evidence to justify it, and it led them to approach their investigation of Richard Glossip in the murder of Barry Van Treese with both confirmation bias and tunnel vision;
- 3) Because of their confirmation bias and tunnel vision, Detectives Bemo and Cook interrogated Justin Sneed in a manner that incentivized him to implicate Richard Glossip in the murder of Barry Van Treese for his own gain;
- 4) In their interrogation of Justin Sneed, Detectives Bemo and Cook used several interrogation techniques that increased the risk of eliciting false information from Mr. Sneed, and more specifically increased the risk that they would cause Mr. Sneed to falsely implicate Richard Glossip in the murder of Barry Van Treese. These techniques included: playing one against the other, minimization, and implied suggestions or promises of leniency;
- 5) Detectives Bemo and Cook used leading and suggestive questions to make it appear that Mr. Sneed's post-admission narrative contained facts that linked Mr. Glossip to the murder of Barry Van Treese;

- 6) Justin Sneed's implication of Richard Glossip in the murder of Barry Van Treese during his interrogation by Detectives Bemo and Cook contains no indicia of reliability and several indicia of unreliability; in my professional opinion, Justin Sneed's uncorroborated confession statement is not a trustworthy piece of evidence against Richard Glossip; and
- 7) The body of scientific and empirical research on police interrogation and false confessions was longstanding, well-established and generally accepted in the social scientific community in 2004, and numerous interrogation/false confession experts were available to consult with Mr. Glossip's counsel, help him develop a strategy to challenge Justin Sneed's interrogation-induced statements implicating Richard Glossip, and/or testify on behalf of Mr. Glossip, at the time of his trial in 2004.

#### **IV. Analysis and Professional Opinions**

**1) Detectives Bemo and Cook Immediately Presumed Richard Glossip's Guilt During Their Interrogations of Richard Glossip on January 8 and 9, 1997 and During Their Interrogation of Justin Sneed on January 14, 1997.**

Police detectives in America are trained to thoroughly investigate before they interrogate, and only to interrogate a criminal suspect after such a pre-interrogation investigation has caused detectives to become reasonably certain in their belief in the suspect's guilt. Rather than do the hard work of such an investigation prior to interrogating Richard Glossip on January 8-9, 1997 and Justin Sneed on January 14, 1997, Detectives Bemo and Cook simply assumed that Richard Glossip was involved in the murder of Barry Van Treese. Their immediate presumption of Richard Glossip's guilt and guilty knowledge is clear from the record of these interrogations. In the interrogation of Richard Glossip on January 8, 1997, for example, they told Mr. Glossip:

- "We know Justin's involved in it. And I think you know more about this than what you're telling us...We've got too many discrepancies with the stories that you've been telling all these officers out here in a lot of ways" (Transcript of Interrogation of Richard Glossip, January 8, 1997, p. 62, lines 14-16, 21-24)

- "We've got a concern at this point, Rich, that there may be some involvement" (Transcript of Interrogation of Richard Glossip, January 8, 1997, p. 65, lines 8-10)

- Richard Glossip: Then why am I sitting here?

Detective Cook: Because of all the inconsistencies, different things that seem to be a little bit inconsistent with – as an example, you told Officer Brown here a couple of different stories about when you saw Barry.

Richard Glossip: No. I said I thought I saw Barry. Didn't I say that in the car?

Detective Cook: Well, by the time it got back to us –

Richard Glossip: Okay

Detective Cook: – it appears to me –

Richard Glossip: No. I understand. I understand.

Detective Cook: Okay. I'm trying to answer your question here generally, without going over point by point again. But in answer to your question, there was several inconsistencies, and that's why you're sitting here. (Transcript of Interrogation of Richard Glossip, January 8, 1997, p. 93, line 15-p. 94, line 12)

In their interrogations of Richard Glossip, Detectives Bemo and Cook repeatedly accused Richard Glossip of not telling the truth, of giving inconsistent accounts, and of withholding information of the murder as if he were involved in it, despite the fact that there was no evidence linking Mr. Glossip directly to the murder of Barry Van Treese at the time of those interrogations. The detectives' theory was that Richard Glossip had participated in the murder of Barry Van Treese with Justin Sneed and was telling inconsistent stories to cover up his involvement and knowledge. But the detectives had no evidence to support their theory.

Their interrogation of Justin Sneed on January 14, 1997 thus becomes more important, and it too illustrates their presumption of Richard Glossip's guilt and guilty knowledge in the murder of Barry Van Treese. Remarkably, and consistent with their presumption of Mr. Glossip's guilt, the detectives arrested Mr. Glossip prior to their interrogation of Justin Sneed. In their interrogation of Justin Sneed, Detectives Bemo and Cook repeatedly told or implied to Mr. Sneed that they believed he did not commit the crime alone, that Richard Glossip committed the crime with him, and that he (Mr. Sneed) would be better off – receive less punishment – if he admitted Richard Glossip's alleged involvement in the murder of Barry Van Treese. Alleging or implying they had evidence against Richard Glossip, the detectives primed, pressured, and persuaded Mr. Sneed to implicate Mr. Glossip in the murder of Barry Van Treese. For example, the detectives told Mr. Sneed:

- “[W]e know that this involves more than just you, okay? We’ve got witnesses and we’ve got other people and we mostly likely have physical evidence.” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 5, lines 2-5):
- “And right now the best thing you can do is to just be straightforward with us about this thing and talk to us about it and tell us what happened and who all was involved, because

I personally don't think you're the only one." (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 5, lines 7-12)

- "I think there are more people involved and you can straighten out a lot of things. And I just don't think you should take the whole thing." (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 5, line 23-p. 6, line 1)
- "Well, let me tell you, there's – there's a lot of people, you know, when something like this happens everybody tried to save themselves...And everybody wants to make themselves look as good as they can, you know, to the – to the police. Because then all of a sudden, you know, the cat's out of the bag and everybody knows what's going on. Well, they've made you the scapegoat in this. You know, everybody is saying you're the one that did this and you did it by yourself and I don't believe that. You know that Rich is under arrest, don't you?" (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 16, line 25-p. 17, line 14)
- "He's under arrest, too...So he's the one – he's putting it on you the worst. Now, I think that there's more to this than just you being by yourself and I would like for you to tell me what – how this got started and what happened . . . ." (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 17, lines 17-25)

As these excerpts from the interrogation of Justin Sneed illustrate, Detectives Bemo and Cook presumed the guilt of Richard Glossip in the murder of Barry Van Treese and set out to prove it by pressuring and persuading Justin Sneed to name Richard Glossip as his accomplice and the mastermind of the homicide.

**2) Detectives Bemo and Cook's immediate presumption of Richard Glossip's guilt in the murder of Barry Van Treese was premature because there was insufficient investigation or evidence to justify it and led them to approach their investigation of Richard Glossip in the murder of Barry Van Treese with both confirmation bias and tunnel vision.**

As set out above, Detectives Bemo and Cook formed an immediate presumption of Richard Glossip's guilt in their investigation of Barry Van Treese's murder. Their presumption of Richard Glossip's guilt was premature because they possessed no independent evidence to support it. Substantial social science research has demonstrated that a behavioral presumption of guilt leads to tunnel vision, confirmation bias, and investigative bias among police investigators, who, as a result, often end up eliciting unreliable case information.<sup>1</sup> When investigators begin with or arrive at a premature presumption of guilt, they seek to build a case against an individual whose guilt they assume *a fortiori* – rather than seeking to even-handedly collect factual

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<sup>1</sup> See Tavis, Carol, and Elliot Aronson. *Mistakes Were Made (but not by me)*. Harcourt Books, 2007.

information and objectively investigate a case. Under these circumstances, investigators may act as if they are seeking to prove their pre-existing theories or conclusions rather than investigate a hypothesis. This mental framework causes investigators to disregard contradictory information and evidence, selectively [mis]characterize existing information and evidence, and misinterpret a suspect's statements and behavior to conform to the investigators' pre-existing assumptions.<sup>2</sup>

In my professional opinion, Detectives Bemo and Cook's investigation of Richard Glossip suffered from confirmation bias (the conscious and/or unconscious desire to prove one's pre-existing beliefs by selectively focusing only on evidence that supports those beliefs and discounting evidence that does not) and tunnel vision (the failure to consider alternatives to one's pre-existing and preferred beliefs). In their interrogation of Justin Sneed, Detectives Bemo and Cook told Mr. Sneed that they knew what happened, that the murder was Mr. Glossip's idea and that they just needed Mr. Sneed to confirm their assertion (i.e., presumption) of Mr. Glossip's guilt. From an investigative and factual standpoint, the problem here is that they had no independent evidence to support their presumption of Richard Glossip's guilt in the homicide of Barry Van Treese; their strong desire to link Richard Glossip to the murder of Barry Van Treese was theory-driven, not evidence-driven.

**3) Detectives Bemo and Cook's confirmation bias and tunnel vision led them to interrogate Justin Sneed in a manner that incentivized him to implicate Richard Glossip in the murder of Barry Van Treese.**

In their interrogation of Justin Sneed, Detectives Bemo and Cook incentivized Mr. Sneed to implicate Richard Glossip in the murder of Barry Van Treese by repeatedly suggesting and implying that they believed that Richard Glossip was involved, that Mr. Sneed would receive more or all of the punishment if he did not implicate Richard Glossip, and that he would receive less punishment if he did. For example, the detectives told Mr. Sneed:

- “[W]e know that this involves more than just you, okay? We’ve got witnesses and we’ve got other people and we mostly likely have physical evidence.” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 5, lines 2-5)
- “And right now the best thing you can do is to just be straightforward with us about this thing and talk to us about it and tell us what happened and who all was involved, because I personally don’t think you’re the only one.” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 5, lines 7-12)

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<sup>2</sup> See Kassir, Saul M., Christine C. Goldstein, and Kenneth Savitsky. “Behavioral Confirmation in the Interrogation Room: On the Dangers of Presuming Guilt.” *Law and Human Behavior*, vol. 27, no. 2, 2003, pp. 187-203.

- “I think there are more people involved and you can straighten out a lot of things. And I just don’t think you should take the whole thing.” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 5, line 23-p. 6, line 1)
- “Well, let me tell you, there’s – there’s a lot of people, you know, when something like this happens everybody tried to save themselves...And everybody wants to make themselves look as good as they can, you know, to the – to the police. Because then all of a sudden, you know, the cat’s out of the bag and everybody knows what’s going on. Well, they’ve made you the scapegoat in this. You know, everybody is saying you’re the one that did this and you did it by yourself and I don’t believe that. You know that Rich is under arrest, don’t you?” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 16, line 25-p. 17, line 14)
- “So he’s the one – he’s putting it on you the worst. Now, I think that there’s more to this than just you being by yourself and I would like for you to tell me what – how this got started and what happened” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 17, lines 17-25)

This classic interrogation technique is known as “playing one against the other.” It is written about in police interrogation training manuals, taught in police interrogation training courses, and widely used in practice. It is used in the interrogation of co-defendants to get one co-defendant to implicate another co-defendant. Of course, Richard Glossip would eventually be charged with the homicide of Barry Van Treese, but at the time of Justin Sneed’s interrogation on January 14, 1997, there was no evidence linking Richard Glossip to Barry Van Treese’s murder; it was merely Detectives Bemo and Cook’s theory that Richard Glossip was involved in the homicide. The detectives needed Justin Sneed to identify Richard Glossip as his co-conspirator, and the alleged mastermind, in order for them to prove theory of Mr. Glossip’s involvement.

The problem with the “playing one against another” technique is that it can sometimes – as here – imply that the suspect will receive less punishment (a lower charge and/or a shorter or less harsh prison sentence) in exchange for implicating an alleged accomplice, whether or not the accomplice is actually guilty. As I will discuss in the next section, when the “playing one against another” interrogation technique becomes the functional equivalent of an implied or explicit promise or suggestion of leniency in exchange for implicating another person allegedly involved in the crime, it increases the risk that the person being interrogated will provide false and unreliable information to his interrogators to receive the implicitly or explicitly suggested benefits of doing so.

- 4) In their interrogation of Justin Sneed, Detectives Bemo and Cook used several interrogation techniques that increased the risk of eliciting false information from**

**Mr. Sneed, and more specifically increased the risk that they would cause Mr. Sneed to falsely implicate Richard Glossip in the murder of Barry Van Treese.**

Social science researchers have empirically studied and identified interrogation techniques that increase the risk of eliciting false information from an interrogated suspect. These are referred to as *situational* risk factors in the empirical research literature. Among the well-known *situational* risk factors are minimization and promises of leniency. The technique just mentioned, “playing one against another,” can be a form of minimization; minimization may shade into promises or suggestions of leniency; and promises of leniency may be implicit or explicit. They increase the risk of eliciting false information from an interrogated suspect by communicating the message that the suspect will receive a significant benefit and/or avoid a significant harm in exchange for the desired information.

Minimization refers to the interrogation technique of portraying the offense in a way that minimizes its moral, psychological and/or legal seriousness, thus lowering the perceived cost of confessing by communicating that the consequences of confessing will not be as serious. Interrogation techniques and strategies that implicitly or explicitly minimize the legal seriousness of the crime, in particular, are associated with and known to increase the risk of eliciting unreliable statements. Such *minimization* techniques and strategies can imply leniency, reduced punishment, or even no punishment at all if the suspect perceives that there is no consequence to confessing (*i.e.*, either that the act to which the suspect is confessing is not a crime or that it carries little or no penalty).<sup>3</sup>

In the interrogation of Justin Sneed, Detectives Bemo and Cook repeatedly used minimization techniques to suggest or imply that Mr. Sneed could minimize his legal culpability and consequences if he implicated Richard Glossip as his accomplice and the mastermind in the murder of Barry Van Treese (and conversely that Mr. Sneed would receive more punishment if he failed to implicate Richard Glossip). As mentioned above, Detectives Bemo and Cook told Mr. Sneed:

- “Everybody that we talked to they’re putting it on you, okay? They’re putting the whole thing on you and they’re going to leave you holding the bag.” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 5, lines 13-16)
- “I think there are more people involved and you can straighten out a lot of things. And I just don’t think you should take the whole thing.” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 5, line 23-p. 6, line 1)

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<sup>3</sup> Kassir, Saul M., Steven A. Drizin, Thomas Grisso, Gisli H. Gudjonsson, Richard A. Leo, and Allison D. Redlich. “Police-Induced Confessions: Risk Factors and Recommendations.” *Law and Human Behavior*, vol. 34, no. 1, 2010, pp. 3-38.

- “Well, let me tell you, there’s – there’s a lot of people, you know, when something like this happens everybody tried to save themselves...And everybody wants to make themselves look as good as they can, you know, to the – to the police. Because then all of a sudden, you know, the cat’s out of the bag and everybody knows what’s going on. Well, they’ve made you the scapegoat in this. You know, everybody is saying you’re the one that did this and you did it by yourself and I don’t believe that. You know that Rich is under arrest, don’t you?” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 16, line 25-p. 17, line 14)

In addition, Detectives Bemo and Cook told Mr. Sneed:

- Mr. Cook: Well, basically what he’s saying, Justin, is that Rich told us that you’re the one that came to him with that idea.  
  
Mr. Bemo: He’s putting it off on you, Justin. That’s what he told us.  
  
Mr. Sneed: No. I don’t understand that.  
  
Mr. Bemo: And now Rich is trying to save himself by saying that you’re in this by yourself, that it was all your doing and you’re the one that – that did the homicide, it was you, that you came to him and told him about it; is that true? (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 19, lines 4-16)

And:

- “Well, that ain’t going to a get it. They’re putting it all off on you. That’s what I’m trying to tell you.” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 21, lines 1-3)

And:

- “If it’s just – if it went bad or you didn’t mean to do it you need to tell us that and that’s what we’ll tell the District Attorney’s office.” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 21, line 24-p. 22, line 2)

And:

- Mr. Cook: And anything you tell us we’re going to go tell the District Attorney. I mean, if it’s a situation where you didn’t mean to do this, got carried away, and you’re sincere and you’re telling the truth, we’ll go tell the man that.



Mr. Bemo: But we want to know whose – whose idea it was.

Mr. Cook: Is it all your idea, the whole thing?” (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 24, lines 12-21)

The clear message of these (and the earlier excerpted) interrogation techniques is that: (1) there is strong evidence linking Mr. Sneed to the murder of Barry Van Treese; (2) the detectives believe that Mr. Sneed did not commit the murder alone, but with Richard Glossip; (3) if he fails to implicate Richard Glossip in the murder, Justin Sneed will receive all the punishment that is to be doled out for this murder; (4) Richard Glossip is putting the primary blame for the murder onto Justin Sneed; (5) the way for Mr. Sneed to minimize some of his legal culpability and the consequences he faces is to implicate and shift the primary blame for the murder onto Richard Glossip; and (6) if Mr. Sneed minimizes his intent and role in the crime, the detectives will relay this information to the district attorney. As it is the district attorney who decides what charges to bring, and ultimately the charges that are brought determine what punishment Mr. Sneed will receive, the interrogation techniques here communicate that Mr. Sneed can minimize his culpability in the homicide and the consequences he will face if he implicates Richard Glossip and admits to a lesser, subordinate role in the homicide. The above excerpts illustrate how the interrogation technique of “playing one against another” in combination with minimization can convey an implied promise of leniency in exchange for the desired information. The use of minimization via the technique of “playing one against the other” and the use of implied promises of leniency are considered psychologically coercive and increase the risk of eliciting false and unreliable information.

**5) Whether consciously or not, Detectives Bemo and Cook used leading and suggestive questions to educate Justin Sneed about their theory of Richard Glossip’s involvement in the murder of Barry Van Treese, and to make it appear that Mr. Sneed’s post-admission narrative contained facts linking Mr. Glossip to the murder of Barry Van Treese.**

Police interrogation contamination refers to the leaking or disclosing of non-public facts or crime scene details to a suspect, and police interrogation scripting refers to pressuring and/or persuading the suspect to adopt the police narrative of the how and why the crime occurred. Neither practice is recommended by police interrogation training manuals because once police interrogators obtain a confession from a suspect, they are supposed to revert back to an interview question and answer style format and voluntarily elicit truthful information and accurate details from the suspect. There is no question that Justin Sneed murdered Barry Van Treese, and during his interrogation on January 14, 1997, Mr. Sneed provided Detectives Bemo and Cook some of the details of how he committed the murder. Those details have been corroborated, and Mr. Sneed subsequently pled guilty to the first-degree murder of Barry Van Treese and received a life sentence. All of the physical and forensic evidence confirms Mr. Sneed’s guilt.

Police interrogation contamination and scripting are not recommended interrogation techniques; they are not only unnecessary, but potentially undermine the investigative goal of finding the truth in a criminal case if the interrogated suspect incorporates details he is fed, or a narrative account he is pressured to accept, into his confession statement. Because Mr. Sneed committed the murder of Barry Van Treese, he knew the details of the crime, and he knew how and why he committed the homicide. Nevertheless, because Mr. Sneed initial post-admission narrative did not fit with Detectives Bemo and Cook's theory of Richard Glossip's involvement, they used leading and suggestive questions and assertions to prime Mr. Sneed to provide the account of Richard Glossip's involvement that they were seeking.

The suggestion that Richard Glossip was involved in the homicide of Justin Sneed first came from Detectives Bemo and Cook, not Mr. Sneed. Detectives Bemo and Cook implied or told Mr. Sneed that they believed Richard Glossip was involved with him in the murder of Barry Van Treese virtually from the moment the interrogation started, and they repeated this implication and assertion many times, as the above-quoted interrogation excerpts indicate. In addition to priming, pressuring and persuading Justin Sneed to adopt their theory of Richard Glossip's involvement in the murder of Barry Van Treese and incorporate it into his confession statement, Detectives Bemo and Cook also sought to correct Mr. Sneed's post-admission narrative to make it appear to corroborate Richard Glossip's alleged involvement. For example, when asked how much money he got from the robbery-murder of Barry Van Treese, Justin Sneed provided the wrong answer. However, Detective Bemo ignored Mr. Sneed's answer and instead corrected him, in effect feeding Mr. Sneed the correct answer so that it would match up with, and appear to corroborate, what Mr. Sneed alleged Richard Glossip had told him:

Mr. Sneed: Well, no. He [Richard Glossip] made me lock it and I just rang the buzzer and he come up there. And then we went and got the money out of the car and went and took it back to my room so that I guess like his girlfriend wouldn't know nothing or nothing like that and we split the money.

Mr. Bemo: How much money did you get?

Mr. Sneed: Like about \$1,900. I mean, he told me that the guy was sitting on like \$7,000 but it only come up to being a little less than five, I think.

Mr. Bemo: \$5,000?

Mr. Sneed: No, a little less than four, right at four.

Mr. Bemo: Right at \$4,000. So did you count the money there to see how much was in the – that he had there and then split it up equally?

Mr. Sneed: No. We just kind of tossed like – like a – like a grand here and then we tossed a grand there and then we just kind of divided it like into two piles and never really counted it.

Mr. Bemo: So you got close to \$2,000 a piece?

Mr. Sneed: Yes. (Transcript of Interrogation of Justin Sneed, January 14, 1997, p. 36, line 23-p. 37, line 25)

Because Detective Bemo knew the amount of money that both Justin Sneed and Richard Glossip had and it did not match with Justin Sneed's description (if Justin Sneed committed the murder of Barry Van Treese alone, as all the evidence I have reviewed suggests, he would not have known how much money Richard Glossip had in his possession at the time of his arrest), Detective Bemo educated and corrected Justin Sneed so that Mr. Sneed would change his answer to match fit with what Detective Bemo believed to be corroborating evidence. In other words, Justin Sneed's answer here, just like the suggestion that Richard Glossip was involved as a co-conspirator in the homicide, came first from the detectives, not Justin Sneed. Whether consciously or not, Detective Bemo's interrogation scripting here illustrates his confirmation bias and undermined the accuracy of Justin Sneed's confession statement, creating the illusion that it offered corroboration of Richard Glossip's involvement when it did not.

**6) Justin Sneed's statements during his interrogation implicating Richard Glossip in the murder of Barry Van Treese contain no indicia of reliability and several indicia of unreliability.**

To evaluate the likely reliability or unreliability of interrogation-induced statements, social science researchers analyze the fit between the suspect's statement(s) and the crime facts and/or corroborating evidence derived from the statement(s). By this standard, Justin Sneed's statements on January 14, 1997 implicating Richard Glossip contain numerous indicia of unreliability and no indicia of reliability. In my professional opinion, Justin Sneed's statements during his interrogation implicating Richard Glossip are not trustworthy as evidence. I offer several reasons for this conclusion:

First, the Barry Van Treese murder scene was chock full of physical and forensic evidence – blood, fingerprints, broken glass and DNA – taken from Room 102 and subsequently tested. None of the extensive forensic evidence matched or belonged to Richard Glossip. Every blood sample taken from the crime scene matched to Barry Van Treese. Every fingerprint taken from the crime scene, 11 in total, were identified as belonging to Justin Sneed. The money in Mr. Glossip's possession at the time of his arrest was not shown to be part of the money that Justin Sneed took from Barry Van Treese. There was no forensic evidence at the crime scene or anywhere else linking Richard Glossip to the murder of Barry Van Treese.

Second, none of Justin Sneed's statements implicating Richard Glossip were corroborated by any independent evidence. There is no evidence showing that Richard Glossip had any knowledge of the Barry Van Treese's murder before it happened, only after.

Third, Justin Sneed gave multiple inconsistent and contradictory accounts of his involvement, and Richard Glossip's alleged involvement, in the homicide of Barry Van Treese. As I indicated in my previous report dated September 9, 2015, in his interrogation on January 14, 1997, Justin Sneed ended up giving 4 different versions of what he knew and what allegedly occurred in the homicide of Barry Van Treese. He then made a plea bargain in which he made a deal with the prosecution to testify against Richard Glossip to spare himself from the death penalty and receive a sentence of life without parole instead. Then, in the two trials of Richard Glossip, he ultimately ended up giving 3 other, different versions of the crime. Finally, his mother has told an investigator for the defense that, in the early days following his arrest, he gave yet another story to her in a letter. Multiple and inconsistent versions of an offense are one possible indicator of a confession's potential unreliability. Justin Sneed gave the following 8 different accounts:

Account # 1: That he did not know what to say about the death of Barry Van Treese.

Account # 2: That he did not kill Barry Van Treese.

Account # 3: That he killed Barry Van Treese, but that he had not intended to kill him but only to steal money from him.

Account # 4: That Richard Glossip had asked him to kill Barry Van Treese so that he could run the motel, or for money.

Account # 5: That, following the killing, Richard Glossip told Justin Sneed to purchase trash bags, a hacksaw, and muriatic acid: the acid would be used to melt the body, the saw to cut it up, and the trash bags to carry it away.

Account # 6: That Richard Glossip told Justin Sneed, prior to January 1997, to kill Barry Van Treese when he was in the motel boiler room with a hammer that happened to be nearby. Mr. Sneed was able to refuse this command. Later, in January, Mr. Sneed agreed to follow Mr. Glossip's orders to beat Barry Van Treese to death with a baseball bat because of the way Richard Glossip had raised his voice. Mr. Sneed also said in this testimony that there was no plan given to him as to how the murder and disposition of the body would go, but that Mr. Glossip just gave him one order at a time. Finally, Mr. Sneed also stated, for the first time, that he also stabbed Barry Van Treese with a knife that he carried with him that night.

Account # 7: That Richard Glossip actually had a plan, and communicated that plan to Mr. Sneed. The plan was for Mr. Sneed to kill Barry Van Treese and that Richard Glossip agreed it was Richard's job to clean up the room after the homicide.

Account # 8: That there were others (besides Richard Glossip and Justin Sneed) involved in the homicide of Barry Van Treese, and that those involved would be high ranking figures.

These accounts do not fit with one another, or the crime scene facts, and thus are one indicator of the potential unreliability of Mr. Sneed's statements implicating Richard Glossip in this case. As described in more detail above, Mr. Sneed ultimately gives eight different accounts of his and Richard Glossip's alleged involvement (or non-involvement) in the murder of Barry Van Treese. The suggestion that Richard Glossip was involved in the murder of Barry Van Treese – which all the evidence shows that Justin Sneed committed alone – first originated with Detectives Bemo and Cook, who, as I have discussed, primed, pressured and persuaded Mr. Sneed to adopt their pre-existing theory that Richard Glossip was the principal who masterminded the murder of Barry Van Treese.

In short, there was no physical, forensic or other evidence linking Richard Glossip to the murder of Barry Van Treese. The only evidence supporting the State's theory is Justin Sneed's police-induced statements that he committed the crime with Richard Glossip. But Mr. Sneed's statements implicating Richard Glossip were the product of high risk and psychologically coercive interrogation techniques; they were not supported by any independent forensic evidence, all of which corroborates that Mr. Sneed killed Barry Van Treese; and Justin Sneed's multiple and shifting accounts implicating Richard Glossip in the murder of Barry Van Treese – for which Mr. Sneed was spared being charged with the death penalty – are inconsistent with one another and with the physical evidence. In my professional opinion, Justin Sneed's interrogation-induced statements implicating Richard Glossip at the behest of Detectives Bemo and Cook are not a reliable or trustworthy piece of evidence.

- 7) The body of scientific and empirical research on police interrogation and false confessions was longstanding, well-established and generally accepted in the social scientific community in 2004, and numerous interrogation/false confession experts were available to consult with Mr. Glossip's counsel, help him develop a strategy to challenge Justin Sneed's interrogation-induced statements implicating Richard Glossip, and/or testify on behalf of Mr. Glossip, at the time of his trial in 2004.**

The body of scientific and empirical research on police interrogation and false confessions was longstanding, well-established and generally accepted in the social scientific community in 2004, as confirmed in a 2004 review of the field article by Saul Kassin and Gisli

Gudjonsson that I am including with this report.<sup>4</sup> This empirical research literature consisted of hundreds, if not thousands, of peer-reviewed academic studies and articles, and dozens of peer-reviewed books. Numerous interrogation/false confession experts were available to consult with Mr. Glossip's defense counsel, and/or testify on behalf of Mr. Glossip, at the time of his trial in 2004. Such experts could have testified at Mr. Glossip's trial both generally and specifically.

Generally, social psychologists, criminologists and other academic experts in the applied empirical study of police interrogation and false confessions could have testified about the counter-intuitive phenomena of police interrogation, psychological coercion and false and unreliable statements to police. Such experts could have described:

- The social science research on the social psychology of police interrogation;
- The techniques police are trained to use and the techniques that social science research shows they do use;
- How and why these interrogation techniques are designed to work to move suspects from denial to admission;
- How and why they can become psychologically coercive and lead to involuntary statements;
- How and why they can, and sometimes do, lead to false and unreliable statements;
- Which techniques increase the risk of eliciting false and unreliable statements and why (*i.e.*, situational risk factors);
- Which personality traits and characteristics may increase the risk of false confessions;
- The problem of interrogation contamination and scripting and how it relates to police elicitation of true and false statements; and
- The indicia, patterns and characteristics of false and unreliable confessions.

More specifically, such experts in 2004 could also have testified about the issues present during Justin Sneed's interrogation, and in his statements implicating Richard Glossip that I have identified and analyzed in this report, including:

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<sup>4</sup> Kassir, Saul M., and Gisli H. Gudjonsson. "The Psychology of Confessions: A Review of the Literature and Issues." *Psychological Science in the Public Interest*, vol. 5, no. 2, 2004, pp. 35-67.

- The problem and risks of immediate and premature guilt-presumptive interrogation and the risks it created in this case;
- The problem of investigative confirmation bias and tunnel vision, and the risks it created in this case;
- The problem when police use techniques such as “playing one against the other,” minimization and the risks these interrogation techniques created in this case;
- The problem of psychological coercion during interrogation, and the risks it created in this case;
- The problem with police interrogation contamination and scripting and the risks it created in this case; and
- The indicia, hallmarks and characteristic of unreliability that were present in this case.

## **V. Conclusion**

In conclusion, based on my detailed analysis above, it is my professional opinion that:

- 1) As is evident from their interrogations of both Richard Glossip and Justin Sneed, Detectives Bemo and Cook immediately presumed the guilt of Richard Glossip in the murder of Barry Van Treese;
- 2) Detective Bemo and Cook’s presumption of Richard Glossip’s guilt in the murder of Barry Van Treese was premature because there was insufficient investigation or evidence to justify it, and it led them to approach their investigation of Richard Glossip in the murder of Barry Van Treese with both confirmation bias and tunnel vision;
- 3) Because of their confirmation bias and tunnel vision, Detectives Bemo and Cook interrogated Justin Sneed in a manner that incentivized him to implicate Richard Glossip in the murder of Barry Van Treese for his own gain;
- 4) In their interrogation of Justin Sneed, Detectives Bemo and Cook used several interrogation techniques that increased the risk of eliciting false information from Mr. Sneed, and more specifically increased the risk that they would cause Mr. Sneed to falsely implicate Richard Glossip in the murder of Barry Van Treese. These techniques included: playing one against the other, minimization, and implied suggestions or promises of leniency;

- 5) Detectives Bemo and Cook used leading and suggestive questions to make it appear that Mr. Sneed's post-admission narrative contained facts that linked Mr. Glossip to the murder of Barry Van Treese;
- 6) Justin Sneed's implication of Richard Glossip in the murder of Barry Van Treese during his interrogation by Detectives Bemo and Cook contains no indicia of reliability and several indicia of unreliability; in my professional opinion, Justin Sneed's uncorroborated confession statement is not a trustworthy piece of evidence against Richard Glossip; and
- 7) The body of scientific and empirical research on police interrogation and false confessions was longstanding, well-established and generally accepted in the social scientific community in 2004, and numerous interrogation/false confession experts were available to consult with Mr. Glossip's counsel, help him develop a strategy to challenge Justin Sneed's interrogation-induced statements implicating Richard Glossip, and/or testify on behalf of Mr. Glossip, at the time of his trial in 2004.

The opinions I express in this report are based on my own knowledge, research, and publications; research and publications in the field; and the case-specific information and evidence that has been provided to me. Should any additional information or testimony come to my attention, I reserve the right to modify any opinions expressed herein accordingly.

If you have any questions, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink that reads "Richard A. Leo". The signature is written in a cursive, flowing style.

Richard A. Leo, Ph.D., J.D.  
Hamill Family Professor of Law and  
Social Psychology  
University of San Francisco



## **APPENDIX 3**

**Barry Van Treese's January 6-7, 1997 Movements According to Pike Pass Records**

Mr. Van Treese's Route from Pike Pass <sup>1</sup>	Left	Arrived	Length of Time of Mr. Van Treese's Trip	Length of Time According to Google Maps	Distance According to Google Maps	What Mr. Van Treese & Others Said About Length of Trip
<b><i>Lawton → BBI OKC</i></b>						
Lawton (8 Ketch Creek Place) → Chickasha Plaza (Exit 80, H.E. Bailey Turnpike)	1/6 at 4:34 p.m. (estimated)	1/6 at 5:12 p.m. (Pike Pass record)	Presumed 38 minutes	38 minutes	42.3 miles	Mr. Van Treese arrived at the Best Budget Inn ("BBI") OKC between 5:30 and 5:45 p.m., "maybe closer to 6." (Trial 2 Testimony of B. Hooper, Vol. 7 at p. 53:7-10).
Chickasha Plaza → Newcastle Plaza (Bailey Turnpike Toll Plaza, Newcastle)	1/6 at 5:12 p.m. (Pike Pass record)	1/6 at 5:31 p.m. (Pike Pass record)	19 minutes	17 minutes	18 miles	
Newcastle Plaza → BBI OKC (301 S. Council Road)	1/6 at 5:31 p.m. (Pike Pass record)	1/6 at 5:58 p.m. (estimated)	Presumed 27 minutes	27 minutes	27.1 miles	
<b><i>BBI OKC → Tulsa BBI</i></b>						
BBI OKC → OKC Plaza (Turner Turnpike, Exit 138)	1/6 at 8:11 p.m. (estimated)	1/6 at 8:33 p.m. (estimated)	Presumed 22 minutes	22 minutes	20.8 miles	Mr. Van Treese left BBI OKC at 7:50 p.m. (Trial 2 Testimony of D. Wood, Vol. 5 at pp. 77:25-78:8). Mr. Van Treese told Wood, "If Donna calls, tell her I left at 8:00." ( <i>Id.</i> )

<sup>1</sup> To create this timetable, we attempted to ascertain where Oklahoma Turnpike plazas and toll booths were located in 1997, but we were unable to find anything definitive regarding those locations. Therefore, the distances and times between Turnpike plazas are estimations based on what we were able to glean from 1997 records. We were also unable to verify if Mr. Van Treese made stops along this route and, if so, where he stopped.

Mr. Van Treese's Route from Pike Pass <sup>1</sup>	Left	Arrived	Length of Time of Mr. Van Treese's Trip	Length of Time According to Google Maps	Distance According to Google Maps	What Mr. Van Treese & Others Said About Length of Trip
OKC Plaza → Tulsa West Plaza (Turner Turnpike, Exit 221)	1/6 at 8:33 p.m. (estimated)	1/6 at 9:44 p.m. (Pike Pass record — based on when MR. VAN TREESE paid toll)	Presumed 1 hour, 11 minutes	1 hour, 11 minutes	86.7 miles	According to William Bender, Mr. Van Treese arrived at BBI Tulsa “after 11, but before midnight.” (Trial 2 Testimony of W. Bender, Vol. 8 at p. 62:15–16.)
Tulsa West Plaza → Tulsa BBI (34 S. Sheridan Road)	1/6 at 9:44 p.m.	1/6 at 9:58 p.m.	Presumed 14 minutes	14 minutes	12.4 miles	
<b><i>Tulsa BBI → BBI OKC</i></b>						
Tulsa BBI → Tulsa West Plaza	1/7 at 12:08 a.m. (estimated)	1/7 at 12:22 a.m. (estimated)	Presumed 14 minutes	14 minutes	12.8 miles	<p>Mr. Van Treese left BBI Tulsa between 12:15-12:20 a.m. on January 7, 1997 (January 8, 1997 B. Bemo Supplemental Report Regarding Interview of W. Bender at 3).</p> <p>At approx. 12:30 a.m., Mr. Van Treese called Bender and told Bender to tell Ms. Van Treese that he left Tulsa at 12:40 a.m. and would be home in 5.5 hours. Mr. Van Treese also wanted Ms. Van Treese to know that he was going to stop in OKC to pick up his money. (<i>Id.</i>)</p> <p>[Note: per Google maps, travel from BBI Tulsa to</p>

Mr. Van Treese's Route from Pike Pass <sup>1</sup>	Left	Arrived	Length of Time of Mr. Van Treese's Trip	Length of Time According to Google Maps	Distance According to Google Maps	What Mr. Van Treese & Others Said About Length of Trip
						Lawton, with a stop at BBI OKC, would take approx. 3 hours 2 minutes]

## **APPENDIX 4**

## The State's Flimsy Corroboration Evidence

### 1. Actively Concealing Murder

State's Claim <sup>1</sup>	RS Investigation Findings
John Prittie, the motel guest in room 103, testified that he saw two white males fixing the window to room 102 later that morning. Although Prittie could not identify either man years later at trial, he testified they were "younger men." <sup>2</sup> At the time of the murder, Richard Glossip was 33 years old. Justin Sneed was 19 years old. <sup>3</sup>	Claim undisputed. While this evidence may support a charge of accessory after the fact, this does not indicate or support a first degree murder charge.
Glossip told Billye Hooper around 8:00 a.m. that Mr. Van Treese had "got up early that morning and had gone to get breakfast and was going to go get some materials. They were going to start working on the motel." <sup>4</sup> Glossip told Hooper that Mr. Van Treese was staying in Room 108. <sup>5</sup> Hooper was surprised because "[a]s a rule when [Barry] was on the property and spending the night, he was not in the office prepared to do work or to eat breakfast at 8:00 in the morning ... prior to that it had never happened." <sup>6</sup>	Claim disputed. Sneed woke Glossip up to get the plexi-glass and they hung it over the broken window. <sup>7</sup>  While this evidence may support a charge of accessory after the fact, this does not indicate or support a first degree murder charge.
Glossip also told Hooper not to put room 102 on the housekeeping list because he and Sneed were going to clean up that room. <sup>8</sup> Glossip explained that Mr. Van Treese had rented that room to "a couple of drunks and they had busted out a window" and that Glossip had run the drunks off the motel property. <sup>9</sup> Hooper said Glossip did not normally clean rooms. <sup>10</sup>	Claim Disputed. Hooper curiously did not share this critical fact with the police the day of the murder or after the murder despite speaking to multiple police officers. Hooper did not testify to this in Trial 1 <sup>11</sup> and introduced for the first time in Trial 2. <sup>12</sup> Police failed to obtain any records or verification of the housekeeping list despite being aware a housekeeping list did exist. <sup>13</sup> It is unlikely room 102 would appear on the housekeeping list as it was not rented out to an actual motel guest.

<sup>1</sup> The claims contained in this column are verbatim statements from the State's Clemency briefing. The citations also mirror those used by the State.

<sup>2</sup> Trial 2 Testimony of J. Prittie, Vol. 4 at p. 163-165.

<sup>3</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 11.

<sup>4</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 62.

<sup>5</sup> *Id.* at 66.

<sup>6</sup> October 24, 2014 State's Clemency Packet for R. Glossip at pp. 12, 24; Trial 2 Testimony of B. Hooper, Vol. 7 at p. 63.

<sup>7</sup> January 14, 1997 Police Interrogation Transcript of J. Sneed, at pp. 51-52.

<sup>8</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 64.

<sup>9</sup> *Id.* at pp. 64 -66.

<sup>10</sup> October 24, 2014 State's Clemency Packet for R. Glossip at 25; Trial 2 Testimony of B. Hooper, Vol. 7 at p. 65.

<sup>11</sup> Trial 1 Testimony of B. Hooper, Vol. 3 at pp. 107:1-118:7; Trial 1 Testimony of B. Hooper, Vol. 4 at pp. 6:1-48:11.

<sup>12</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 64:1-25.

<sup>13</sup> January 8, 1997 Police Report of B. Weaver, at p. 2.

State's Claim <sup>1</sup>	RS Investigation Findings
<p>Gossip told Jackie Williams, a housekeeper at the motel, not to clean any downstairs rooms, which would include room 102.<sup>14</sup> Williams had never before been given that type of instruction.<sup>15</sup></p>	<p>Williams told police that Sneed "made a point of telling her to clean the upstairs rooms only, that he would clean the downstairs rooms."<sup>16</sup> Williams did not change or correct her statement until May 2004, when speaking with prosecutor Gary Ackley.<sup>17</sup> Williams then claimed that Gossip, not Justin, gave her the instruction and that she "misspoke" to police.<sup>18</sup> It should be noted that Williams only worked at the motel for one month prior to murder; limited sample size and understanding of motel operating procedure.</p> <p>Even assuming the truth of her 2004 statement, this evidence would at most support a charge of accessory after the fact, and does not indicate or support a first degree murder charge.</p>
<p>Gossip told Kayla Pursley, a long-term resident of the motel who had asked about Room 102's broken window, that two drunks got into a fight inside the room, threw a footstool through the window and that he and Sneed threw them off the motel property. Gossip suggested a man Pursley observed at the Sinclair station earlier that morning was one of the drunks who broke the motel room's window.<sup>19</sup></p>	<p>While evidence may support a charge of accessory after the fact, this does not indicate or support a first degree murder charge.</p>
<p>When that same resident [Kayla Pursley] mentioned that she saw blood on the outside of the window to room 102, Gossip told her that someone got cut cleaning up the glass.<sup>20</sup></p>	<p>Despite being interviewed multiple times by police officers in January 1997, Pursley curiously did not share this information despite sharing other relevant information.<sup>21</sup> Pursley shared this information for the first time at the second trial.<sup>22</sup></p>
<p>Gossip was interviewed by homicide detectives in the early morning hours of January 8, 1997. During that interview, Gossip denied any involvement in, or prior knowledge of, the murder. However, Gossip told homicide detectives in a second interview on January 9<sup>th</sup> that Sneed appeared at his apartment early in the morning on January 7<sup>th</sup> and confessed to the murder. Gossip admitted his involvement in cleaning up the glass in front of room 102 and sealing up the broken window with plexiglass. He also admitted that he did not</p>	<p>During the second interview, Gossip denied that he was not forthcoming about Justin's statement to him about the murder in order to protect Sneed. Rather, Gossip said he initially lied to detectives because when Sneed told him about the murder, he felt like he "was involved in it, I should have done something right then" and that he did not want to lose his girlfriend over it.<sup>24</sup> Gossip maintained that he was not involved nor had knowledge prior to Justin telling him he killed Mr. Van Treese at 5 a.m. Jan. 7, 1997.<sup>25</sup></p>

<sup>14</sup> Trial 2 Testimony of J. Williams, Vol. 8 at p. 122.

<sup>15</sup> October 24, 2014 State's Clemency Packet for R. Gossip at 25; Trial 2 Testimony J. Williams, Vol. 8 at p. 123.

<sup>16</sup> January 8, 1997 Police Report of B. Weaver, at p. 2.

<sup>17</sup> G. Ackley Interview of J. William's Daughter (May 11, 2004).

<sup>18</sup> *Id.*

<sup>19</sup> October 24, 2014 State's Clemency Packet for R. Gossip at pp. 12, 25; Trial 2 Testimony of K. Pursley, Vol. 9 at pp. 45-47.

<sup>20</sup> October 24, 2014 State's Clemency Packet for R. Gossip at pp. 12, 25, Trial 2 Testimony of K. Pursley, Vol. 7 at p. 54.

<sup>21</sup> May 14, 1997 Police Report of B. Bemo; January 7, 1997 Police Report of T. Brown.

<sup>22</sup> Trial 2 Testimony of K. Pursley, Vol. 9 at p. 53:4-55:11.

<sup>24</sup> State's Exhibit 2; Court's Exhibit 4.

<sup>25</sup> January 8, 1997 Police Interrogation Transcript of R. Gossip, at p. 64-65.

State's Claim <sup>1</sup>	RS Investigation Findings
share any of this information with investigators, or anyone else for that matter, during the search for Mr. Van Treese. <sup>23</sup>	While this evidence may support a charge of accessory after the fact, this does not indicate or support a first degree murder charge.
After Mr. Van Treese's vehicle was located, Glossip told Sgt. Tim Brown of the Oklahoma City Police Department (OCPD) that he last saw Mr. Van Treese walking through the motel parking lot at 7 a.m. that morning. <sup>26</sup> During a second conversation that night, Glossip told Sgt. Brown that Sneed said "that a couple of drunks had got in a fight and broke the window and that he had to take them off the property." Glossip stated that he saw Mr. Van Treese after the broken window incident. <sup>27</sup> Glossip later told Sgt. Brown that "everything started getting confused" and "[r]eally, the last time I remember seeing [Mr. Van Treese] is 8:00 the night before when he was picking up the payroll money" right before Mr. Van Treese left for Tulsa. <sup>28</sup> Glossip stated that he saw someone walking through the motel parking lot the morning of January 7th but he was not sure it was Mr. Van Treese. <sup>29</sup> When Sgt. Brown mentioned to Glossip his original statement about seeing Van Treese at 7 a.m., Glossip denied making that statement. <sup>30</sup>	Claim disputed. Glossip told Tim Brown that "the story keeps getting turned around." <sup>31</sup>  While this evidence may support a charge of accessory after the fact, this does not indicate or support a first degree murder charge.
Sgt. Brown took Glossip into investigative detention. Once in the backseat of the patrol car, Glossip made the spontaneous statement, "Well, I guess I better tell you now," that he heard the glass breaking earlier that morning followed by Sneed banging on the side wall of his apartment. Glossip stated that he believed the entire time that Sneed had something to do with Mr. Van Treese's disappearance but did not want to say anything until he knew for sure. Glossip also stated that Sneed "had said something to him in the past about setting up a fake robbery." <sup>32</sup>	While this evidence may support a charge of accessory after the fact, this does not indicate or support a first degree murder charge.
During a telephone conversation, Glossip told Ms. Van Treese sometime after 3 p.m. that the last time he saw Mr. Van Treese was between 7 and 7:30 a.m. on January 7 <sup>th</sup> . Glossip said at that time Mr. Van Treese told him "he was going to buy supplies for the motel and he would be back later" <sup>33</sup> Glossip said Mr. Van Treese looked and	Evidence of accessory after the fact at most. There is no record of Ms. Van Treese sharing this information with the police as documented in the police reports made available to this investigation.  While this evidence may support a charge of accessory after the fact, this does not indicate or support a first degree murder charge.

<sup>23</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 14.

<sup>26</sup> Trial 2 Testimony of T. Brown, Vol. 9 at p. 194.

<sup>27</sup> *Id.* at 206.

<sup>28</sup> *Id.* at 209.

<sup>29</sup> *Id.* at 215-217.

<sup>30</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 13; Trial 2 Testimony of T. Brown, Vol. 9 at p. 219.

<sup>31</sup> January 7, 1997 Police Report of T. Brown.

<sup>32</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 14; Trial 2 Testimony of T. Brown, Vol. 9 at p. 233.

<sup>33</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 99.



State's Claim <sup>1</sup>	RS Investigation Findings
<p>sounded fine.<sup>34</sup> Glossip told her that he would search all rooms at the motel for Mr. Van Treese.<sup>35</sup></p>	
<p>Glossip originally told Cliff Everhart during the search for Mr. Van Treese that Mr. Van Treese had arrived back at the motel from Tulsa around 2:30 or 3 a.m. on January 7th and had gone to bed.<sup>36</sup> Glossip also told Everhart that he had rented room 102 to a couple of drunk cowboys who eventually broke the window out.<sup>37</sup> Later in the evening, Glossip told Everhart that he last saw Mr. Van Treese at 7 a.m. that day when Mr. Van Treese left the motel.<sup>38</sup> In Everhart's presence, Glossip made it appear as though he had Sneed search the motel rooms for Mr. Van Treese.<sup>39</sup> Glossip also actively searched the motel grounds with Everhart that day to make it appear as though he did not know the location or condition of Mr. Van Treese.<sup>40</sup></p>	<p>Glossip tells police that he did not tell anyone that room 102 was rented out to two cowboys and that only Sneed made the claim.<sup>41</sup> Cliff Everhart told Officer Steadman that <u>he</u> had one of the maintenance man check every room in the motel for Mr. Van Treese.<sup>42</sup> Everhart also told Officer Tim Brown that <u>he</u> had the maintenance man check the rooms and they could not find Mr. Van Treese anywhere inside the motel.<sup>43</sup> Further, Everhart testified at the second trial that <u>he</u> asked Glossip and Sneed to check every room in the motel for Mr. Van Treese, including the storage room and laundry room.<sup>44</sup></p> <p>While this evidence may support a charge of accessory after the fact, this does not indicate or support a first degree murder charge.</p>
<p>On the evening of January 8, 1997, William Bender (manager of the Mr. Van Treese s Tulsa motel) spoke with Glossip by telephone. Glossip said the police believed he had killed Mr. Van Treese.<sup>45</sup> Glossip also said Mr. Van Treese was "beat to a bloody pulp. They found him cold as ice, dead as a doornail."<sup>46</sup> Bender testified that Glossip's demeanor when saying this was "[j]ust like we're having an every day conversation."<sup>47</sup> When Bender asked if Glossip had done it, Glossip responded no, he did not, but he knew who did.<sup>48</sup> Glossip did not mention who it was but said he was "in fear for his life."<sup>49</sup> Glossip also said if he had not been instructed by the police to stick</p>	<p>Evidence of accessory after the fact at most. Bender's testimony amounts to inadmissible hearsay.<sup>51</sup> Phone records from the Oklahoma City motel do not show any incoming calls from the Tulsa motel.<sup>52</sup></p>

<sup>34</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 100.

<sup>35</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 25; Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 102.

<sup>36</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at p. 182 -183.

<sup>37</sup> *Id.* at 188.

<sup>38</sup> *Id.* at 183.

<sup>39</sup> *Id.* at 185, 186.

<sup>40</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 26; Trial 2 Testimony of C. Everhart, Vol. 11 at p. 187.

<sup>41</sup> Jan. 8, 1997 Interview Statement at p. 52.

<sup>42</sup> March 11, 1997 Police Report of B. Bemo.

<sup>43</sup> Trial 1 Testimony of M. Steadman, Vol. 3, at pp. 88:10-89:4, 100:10-21.

<sup>44</sup> Trial 2 Testimony of C. Everhart Vol. 11, at p. 185:8-13.

<sup>45</sup> Trial 2 Testimony of W. Bender, Vol. 8 at p. 87.

<sup>46</sup> *Id.* at 87, 88.

<sup>47</sup> *Id.* at 88.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>51</sup> 12 OK Stat § 12-2802 (2014).

<sup>52</sup> State's Exhibit 80.

State's Claim <sup>1</sup>	RS Investigation Findings
around, he would have already left and that Bender "ought to get out of my hotel because it was going to come down." <sup>50</sup>	

## 2. Proceeds from Murder

State's Claim	RS Investigation Findings
Recovery at book-in by police of approximately \$1,757.00 from Glossip's person on January 9, 1997, also corroborates Sneed's testimony. <sup>53</sup> Glossip had no legal source for approximately \$1,200.00 of the cash recovered from his person at time of book-in. <sup>54</sup>	Glossip was intercepted by police while he was at a lawyer's office (Oklahoma criminal defense attorney David McKenzie, Bar #12774) where the appointment presumably required payment. <sup>55</sup> Additionally, none of Glossip's money had any DNA from either Sneed or Mr. Van Treese, nor did Glossip's money match any serial numbers to Sneed's money. In fact, a majority of the bills police recovered at Glossip's booking were clean and crisp as if they came from an institution or recently cashed check. <sup>56</sup> Glossip also testified that he (1) sold a television and futon for \$190, (2) a vending machine for \$200, (3) received a pay advance of \$100, (4) sold an aquarium for \$100, (5) had money on him from emptying the vending machines, and (6) had money he had saved plus his paycheck, totaling \$1700. <sup>57</sup> Glossip stated his vending machines made almost \$750 a month. <sup>58</sup> In a 2020 interview, David McWater denied buying the futon or any other items from Glossip, and McWater did not know anyone else who purchased items. <sup>59</sup> Further, the money located with blood stains contained Sneed's DNA while Glossip's DNA was excluded. <sup>60</sup> The only piece of evidence tying Glossip's money to the murder is Sneed's testimony.
Glossip had no apparent savings according to his girlfriend D-Anna Wood. She told police the pair were living paycheck to paycheck and "she didn't think [Glossip] could save any money." <sup>61</sup>	Wood informed police that "Rich pretty well kept her in the dark about their finances." <sup>62</sup> Further, Wood testified in the second trial that she "wasn't in charge of the money" and that she did not know to what extent Glossip was saving money. <sup>63</sup>
Glossip admitted to Detective Bemo in the second interview that he gave Mr. Van Treese approximately \$4,000.00 to \$4,500.00 in motel receipts,	Glossip providing large sums of cash to Mr. Van Treese is inconsistent with accusations of embezzlement. Eight different

<sup>50</sup> October 24, 2014 State's Clemency Packet for R. Glossip at pp. 14-15. Trial 2 Testimony of W. Bender, Vol. 8 at p. 88.

<sup>53</sup> Trial 1 Testimony of D. Wood, Vol. 7 at pp. 61-62

<sup>54</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 28.

<sup>55</sup> January 9, 1997 Police Report of B. Bemo.

<sup>56</sup> State's Exhibit 3.

<sup>57</sup> Trial 1 Testimony of R. Glossip, Vol. 7 at pp. 101:20-102:3.

<sup>58</sup> Jan 8, 1997 Interview Statement at p. 48; 1997 Vending Machine Contract.

<sup>59</sup> Reed Smith McWater ROI amended.doc.

<sup>60</sup> October 29, 2003 Original Copy DNA Final Report Excluding Glossip.

<sup>61</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 29; Trial 2 Testimony of B. Bemo, Vol. 14 at p. 44.

<sup>62</sup> January 24, 1997 Police Report of W. Cook.

<sup>63</sup> Trial 2 Testimony of D. Wood, Vol. 5 at p. 76:10-15.

State's Claim	RS Investigation Findings
all in cash and traveler's checks, in the motel office the night before the murder). <sup>64</sup> Billy Hooper testified that motel records established that Mr. Van Treese picked up approximately \$3,500.00 to \$4,000.00 in motel receipts from Glossip the night before the murder. <sup>65</sup>	witnesses (Hooper, Wood, Everhart, Bender, Covalt, Kidd, Brown, and Eckhart) spoke or testified to the fact that Van Treese was known to carry large amounts of cash. <sup>66</sup>

### 3. Stated Intent to Flee

State's Claim	RS Investigation Findings
After his first interview with detectives, Glossip began selling off his personal property to people at the motel. Glossip basically sold everything he owned. Cliff Everhart described this as "a liquidation sale." <sup>67</sup> Glossip sold his furniture, a big screen television, an aquarium and some vending machines located at his manager's apartment at the motel. <sup>68</sup> Glossip told Everhart that "he was going to be moving on." <sup>69</sup> When he missed a previously scheduled meeting with homicide detectives on January 9, 1997, police intercepted Glossip and took him downtown to meet with detectives. <sup>70</sup>	Glossip was under police surveillance at 8 am on January 9 <sup>th</sup> hours before his 12:30 pm polygraph was scheduled to take place. <sup>71</sup> Police observed Glossip visiting Oklahoma criminal defense attorney David McKenzie's office during which McKenzie called the police station and advised Detective Cook that Glossip per his advice was not taking the polygraph. <sup>72</sup> When exiting the attorney's office, police confronted him. <sup>73</sup> Glossip willingly went with Officers Mauck and Krieth when they confronted him at his lawyer's office. <sup>74</sup> At the time of the confrontation, Glossip was in Oklahoma City, over 100 miles away from the nearest state border. Glossip's girlfriend Wood also stated that the couple was intending to leave the motel, but not town. <sup>75</sup> Wood stated that the furniture and vending machine sales were to help Glossip pay for his attorney. <sup>76</sup>

<sup>64</sup> Trial 2, Vol. 15 at p. 127; State's Exhibit 2; Court's Exhibit 4.

<sup>65</sup> October 24, 2014 Glossip States Clemency Packet at p. 28; Trial 2 Testimony of B. Hooper, Vol. 7 at p. 77.

<sup>66</sup> January 8, 1997 Police Report of W. Cook at p. 1; January 7, 1997 Gibbons Supplemental Missing Person Report at p. 2; April 2022 Reed Smith Interview of William Bender; K. Christopher Interview of L. Covalt at p. 2 (October 15, 2018); K. Christopher Interview of C. Kidd at p. 4 (November 12, 2018); January 7, 1997 Cave Report at p. 1.; Affidavit of Tricia Eckhart (Nov. 24, 2019).

<sup>67</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at p. 199.

<sup>68</sup> *Id.* at 199-201.

<sup>69</sup> *Id.* at Vol. 11 at p. 199.

<sup>70</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 15.

<sup>71</sup> January 9, 1997 Police Report of B. Bemo.

<sup>72</sup> March 18, 1997 Police Report of B. Bemo.

<sup>73</sup> In a hearing prior to the first trial, the Court expressed concern with the fact that the police proceeded to interrogate Glossip after receiving indication by phone that Glossip may be represented by counsel (David McKenzie). See Jackson Denno Hearing Testimony of B. Bemo at pp. 27-29.

<sup>74</sup> January 10, 1997 Police Report of W. Cook.

<sup>75</sup> State's Exhibit 87.

<sup>76</sup> Affidavit of D Anna Wood (Feb. 7, 2001); L. Cooper Interview of with D. Wood at p. 6 (February 12, 2001).

#### 4. Motive

State's Claim	RS Investigation Findings
Mr. Van Treese was going to confront Glossip on January 6th or 7th about shortages on the motel books that had persisted through the end of 1996. Everhart testified he was supposed to meet Mr. Van Treese at the Oklahoma City motel on the night of January 6th so they could confront Glossip about these shortages. <sup>77</sup> Everhart had previously told Mr. Van Treese he believed Glossip "was probably pocketing a couple hundred a week extra" from the motel cash receipts during the last two or three months of 1996. <sup>78</sup>	Despite being a trained law enforcement officer and OIDS defense investigator for capital death penalty cases, Everhart failed to mention this at all to the police during the search for Mr. Van Treese or after discovery of his body. The purpose of Mr. Van Treese's impromptu trip to the OKC motel was to make payroll and pay employees Hooper and Glossip. <sup>79</sup> Hooper was waiting for her check on January 6, 1997 and had not been paid for multiple days. <sup>80</sup> Tim Brown testified that "he never heard anything like that" when asked "did you ever come across any information that Mr. VanTreese was going to fire Richard Glossip?" <sup>81</sup>
In December 1996, Hooper, the front desk clerk, had also shared her concerns about Glossip's management of the motel with Mr. Van Treese, who told her he "knew things had to be taken care" of regarding Glossip's management of the motel. Mr. Van Treese promised her that he would take care of it after Christmas. <sup>82</sup>	Hooper curiously did not share this critical fact with the police the day of the murder or after the murder despite speaking to multiple police officers. Further, Hooper's suppositions and assumptions regarding Mr. Van Treese's state of mind is not evidence of any crime.
Ms. Van Treese testified that, by the end of December 1996, she and Mr. Van Treese discovered shortages from the motel accounts receivables totaling \$6,101.92 and that Mr. Van Treese intended to confront Glossip about these shortages on January 6 <sup>th</sup> . Mr. Van Treese told Ms. Van Treese that he would also audit the Oklahoma City motel and perform a room-to-room inspection of the motel at that time. <sup>83</sup>	There is no record in any police report that Ms. Van Treese mentioned to police of any concerns about shortages or Mr. Van Treese's intent to confront Glossip near the time of the murder. Mr. Van Treese routinely performed meticulous audits of his motel properties. <sup>84</sup> The year-end summary that Ms. Van Treese testified about (Exhibit 71) titled Deposit Versus Volume Report does not actually support or provide any evidence of embezzlement. The numbers that Ms. Van Treese relied on to claim there was a shortage were limited to average daily rates. See Section X.C.1. When asked to confirm that average daily rate was of limited value, the Van Treese family's CPA Dudley Bowden stated, "Right. Now we were trying to deal with the, you know, the real number." <sup>85</sup>
William Bender testified that Mr. Van Treese "was all puffed up. He was upset. He was mad . . . He was all red in the face" when Mr. Van Treese	Wood stated she was present for the duration of Mr. Van Treese's Monday evening visit and that he was happy and in a

<sup>77</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at pp. 172-173, 177, 201

<sup>78</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 29; Trial 2 Testimony of C. Everhart, Vol. 11 at p. 172-173

<sup>79</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 53:1-22.

<sup>80</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 80:4-7, Vol. 7 at p. 53:1-22; State's Exhibit 5.

<sup>81</sup> October 1, 1997 J. Sneed Preliminary Hearing Testimony of T. Brown at p. 11:17-19; March 2022 Reed Smith Interview of Tim Brown.

<sup>82</sup> October 24, 2014 State's Clemency Packet for R. Glossip at pp. 29-30; Trial 2 Testimony of B. Hooper, Vol. 7 at p. 40; Trial 2 Testimony of B. Hooper, Vol. 8 at p. 33.

<sup>83</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 30; Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 63, 66, 71.

<sup>84</sup> April 13, 2022 Interview with CPA Dudley Bowden at p. 13.

<sup>85</sup> *Id.* at 20-21.

State's Claim	RS Investigation Findings
<p>arrived at the Tulsa motel just before midnight on January 6th.<sup>86</sup> During Mr. Van Treese's brief visit to the motel, he told Bender that there were a number of registration cards missing at the Oklahoma City motel, that weekend receipt money was missing and that Glossip was falsifying the motel daily reports by allowing people to stay in rooms that were not registered.<sup>87</sup> Mr. Van Treese said that he gave Glossip until he returned to Oklahoma City "to come up with the weekend's receipts that were missing and if he came up with that, he was going to give him another week to come up with the registration cards and get all the year-end receipts together." Otherwise, Mr. Van Treese told Bender he was going to call the police.<sup>88</sup></p>	<p>good mood.<sup>89</sup> Hooper testified that Mr. Van Treese was not mad when he arrived at the motel the evening of January 6<sup>th</sup>.<sup>90</sup></p>
<p>The condition of the Oklahoma City motel on January 7<sup>th</sup> was deplorable. Mr. Kenneth Van Treese, Mr. Van Treese's brother, assumed control of the motel immediately after the murder. He discovered that only around 24 of the rooms at the motel were in habitable condition. 12 rooms had no working heat. Other problems included keys that did not fit room doors, broken or dirty plumbing fixtures and broken telephone systems.<sup>91</sup> Kenneth testified that "the main thing that was wrong with the motel was it was filthy ... absolutely filthy"<sup>92</sup></p>	<p>Officer O'Leary described the Oklahoma City motel as a low rent property frequented by transient individuals.<sup>93</sup> The Van Treese family's CPA Dudley Bowden described the Oklahoma City Property as in poor condition.<sup>94</sup> Motel condition consistent with low revenue property; rooms at the motel rented out for as low as \$23.95 per night in January 1997.<sup>95</sup> Hooper testified that Glossip was "conscientious about trying to keep the property clean, trying to fix it up, and trying to make it nicer, better."<sup>96</sup> Further, Hooper testified that Glossip "always tried to keep the property looking nice" and that she could "never ever say anything against the way he tried to keep the property looking."<sup>97</sup> Additionally, as many as 46 rooms were rented out in 1996 and over 30 rooms were rented out in December 1996.<sup>98</sup> Further, the Van Treese family stayed at the motel on numerous occasions, with their children, including in July 1996.<sup>99</sup></p>

<sup>86</sup> Trial 2 Testimony of W. Bender, Vol. 8 at p. 63.

<sup>87</sup> *Id.* at p. 81.

<sup>88</sup> October 24, 2014 State's Clemency Packet for R. Glossip at 30; Trial 2 Testimony of W. Bender, Vol. 8 at p. 82.

<sup>89</sup> State's Exhibit 87.

<sup>90</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 53:17-54:17.

<sup>91</sup> Trial 2 Testimony of K. Van Treese, Vol. 11 at p. 116-118.

<sup>92</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 31.

<sup>93</sup> May 5, 2022 Interview with Officer O'Leary, at part 2 p. 6.

<sup>94</sup> April 13, 2022 Interview with CPA Dudley Bowden at pp. 19-20.

<sup>95</sup> January 8, 1997 BBI Daily Reports.

<sup>96</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at pp. 90:19-91:6.

<sup>97</sup> *Id.* at 98:15-99:4.

<sup>98</sup> 1996 Monthly Deposit vs Volume OKC.

<sup>99</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 37:14-16.

5. Control Over Sneed

State's Claim	RS Investigation Findings
<p>Bemo, a retired homicide detective who interviewed Sneed, testified that Sneed did not appear very mature and had below average intelligence. He also testified that Glossip appeared more aggressive and intelligent than Sneed. Bemo observed that Glossip was "a very intelligent individual ... a very manipulative individual . . . what he does with everything that he does is he's manipulating, using people."<sup>100</sup></p>	<p>Bemo had little to no interaction with Glossip or Sneed prior to identifying Glossip as a murder suspect. Bemo was not a trained psychologist nor did he administer or have an IQ test administered on Sneed to determine his intelligence when he interviewed him on January 14, 1997. It is puzzling that Bemo could opine on the level of intelligence or personalities of two individuals he spoke with less than 5 hours combined. On two prior occasions where Sneed pled guilty to criminal offenses (bomb threat and burglary), he claimed he was coerced by others.<sup>101</sup> Sneed was known to reject authority and got into trouble frequently while growing up.<sup>102</sup> Sneed was also known as a manipulative person and bully in school who liked to fight.<sup>103</sup> See Section XVIII. for more details on Sneed's violent and criminal history.</p>
<p>Kayla Pursley, another motel resident, described Sneed as being "very childlike."<sup>104</sup> Sneed assisted caring for her children when Pursley broke her foot. Pursley testified that Sneed played with her children "[m]ore as a peer. .. [that] he fit kind of in with my boys, you know, he played and he was real simple. He had a skateboard and that was his life. .. he didn't make a lot of decisions. You had to tell him sometimes what to do."<sup>105</sup> Pursley described how Sneed would not eat unless someone told him to eat.<sup>106</sup></p>	<p>Pursley's observations are consistent with a manager-employee relationship. Stephanie Garcia who spent considerable time with Sneed in 1996 described Sneed as a violent, volatile drug user.<sup>107</sup> The manner in which Sneed killed Mr. Van Treese (beating a person to death with a baseball bat) is inconsistent with a childlike demeanor.<sup>108</sup> Pursley herself provided food to Sneed (similar to Glossip) and Sneed watched her kids yet Sneed was not viewed by the State as her puppet.<sup>109</sup></p>
<p>Glossip and Sneed were described as "very close" friends by Hooper, the front desk clerk at the motel.<sup>110</sup> Hooper testified that Sneed did not know Mr. Van Treese very well.<sup>111</sup></p>	<p>Wood stated to the police that "Justin spent a lot of time at their place with Rich, but near the end, Justin and Rich pretty much went their own ways."<sup>112</sup> Margaret Humphrey heard Sneed say that he was "going to rob and kill Barry." The police failed to interview Humphrey.<sup>113</sup> Tricia Eckhart described Glossip as a man who was "quiet and mostly keeping to himself."<sup>114</sup> In a conversation with Jim Gainey, Wood stated that there was an</p>

<sup>100</sup> October 24, 2014 State's Clemency Packet for R. Glossip at pp. 31-32; Trial 2 Testimony of R. Bemo, Vol. 14 at 46.

<sup>101</sup> C. Aspinwall Interview of J. Sneed (Sept. 15, 2015).

<sup>102</sup> Justin Sneed Competency Evaluation (July 1, 1997)

<sup>103</sup> Declaration of Jamie Spann (Feb. 7, 2018),

<sup>104</sup> Trial 2 Testimony of K. Pursley, Vol. 9 at p. 17.

<sup>105</sup> *Id.* at p. 17.

<sup>106</sup> October 24, 2014 State's Clemency Packet for R. Glossip at p. 32; Trial 2 Testimony of K. Pursley, Vol. 9 at p. 18.

<sup>107</sup> March 2022 Reed Smith Interview of Stephanie Garcia.

<sup>108</sup> Autopsy Report.

<sup>109</sup> Reed Smith Pursley ROI.doc.

<sup>110</sup> Trial 2 Testimony of Billye Hooper, Vol. 7 at p. 28.

<sup>111</sup> October 24, 2014 State's Clemency Packet for R. Glossip at pp. 32-33; Trial 2 Testimony of Billye Hooper, Vol. 7 at p. 34.

<sup>112</sup> January 8, 1997 Police Report of W. Cook.

<sup>113</sup> Affidavit of Margaret Humphrey (Nov. 24, 2019).

<sup>114</sup> Affidavit of Tricia Eckhart (Nov. 24, 2019).

State's Claim	RS Investigation Findings
	instance where Mr. Van Treese "pulled out his wallet in front of everybody and paid everybody except Justin" and that Sneed was "real pissed off about it." <sup>115</sup> See Section XVIII. for violent and criminal actions by Sneed prior to meeting Glossip.
Everhart testified that Sneed was Glossip's "puppet" and that Sneed "was not self-motivated. [Glossip] told him everything to do. [Glossip] would tell him to do this, he'd do it. .. If he needed something, he'd come to [Glossip]." <sup>116</sup>	Everhart curiously did not share these facts with the police the day of the murder or after the murder despite numerous interactions with the police. Everhart instructed Sneed to check the rooms and Sneed obeyed, yet nobody claims Sneed to be Everhart's puppet. <sup>117</sup> Wood stated in a conversation with Jim Gainey that Sneed began to hang out with Everhart before the murder. <sup>118</sup> Additionally, Wood stated to the police that Sneed "spent a lot of time at their place with Rich, but near the end, Justin and Rich pretty much went their own ways." <sup>119</sup> Sneed was known to reject authority and got into trouble frequently while growing up. <sup>120</sup> Sneed was also known as a manipulative guy and bully type in school who liked to fight. <sup>121</sup> See Section XVIII. for Sneed's violent and criminal record.

## 6. People Who Knew Barry Carried Cash

Countless former employees and acquaintances of Mr. Van Treese recall him being someone known for carrying around lots of cash. Below is a table of statements made by employees of Mr. Van Treese pertaining to this.

Witness	Motel	Statement
Billye Hooper	OKC	Stated that Mr. Van Treese "carried quite a bit of business papers with him and he was also known to carry money with him, receipts from the other motels or maybe from there [OKC BBI]." <sup>122</sup>
D. Anna Wood	OKC	Wood said that Mr. Van Treese did not have them deposit money in a bank like a normal business. Instead he carried large amounts of money on him. <sup>123</sup> Q: Did Cliff know Barry had lots of money on him? A: Cliff what, did he know Barry carried a lot of cash?! Yeah, oh yeah. Yeah, Cliff knew everything

<sup>115</sup> J. Gainey Interview of D. Wood at p. 25 (January 30, 1997).

<sup>116</sup> January 8, 1997 Police Report of W. Cook; Trial 2 Testimony of C. Everhart, Vol. 11 at p. 185.

<sup>117</sup> Trial 2 Testimony of C. Everhart, Vol. 11 at p. 185:8-13.

<sup>118</sup> J. Gainey Interview of D. Wood at p. 22 (January 30, 1997).

<sup>119</sup> January 8, 1997 Police Report of W. Cook.

<sup>120</sup> Justin Sneed Competency Evaluation (July 1, 1997)

<sup>121</sup> Declaration of Jamie Spann (Feb. 7, 2018)

<sup>122</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 25:4-9.

<sup>123</sup> January 8, 1997 Cook Supplemental Report Wood Interview, at p. 1.

Witness	Motel	Statement
		about this place. Cliff knew more than we did about this hotel. <sup>124</sup>
Cliff Everhart	OKC	Stated that Mr. Van Treese was carrying approximately \$2,500 in cash from the business. <sup>125</sup>
William Bender	Tulsa	Stated that Mr. Van Treese was known to carry a “wad of cash” with him at all times. <sup>126</sup>
Lisa Covalt	OKC	Stated that people knew that Mr. Van Treese carried a lot of money. <sup>127</sup>
Christopher Kidd	Tulsa	Stated that Mr. Van Treese was known to keep lots of money in the trunk of his car. “People talked about it a lot.” <sup>128</sup>
Sgt. Tim Brown	OKC	“Sgt. Brown advised me he knew the missing person and knew him to carry large amounts of cash on him.” <sup>129</sup>
Tricia Eckhart	Tulsa	Stated that “Mr. Van Treese always carried around a lot of cash.” <sup>130</sup>

<sup>124</sup> J. Gainey Interview of D. Wood at pp. 3-4 (January 30, 1997).

<sup>125</sup> January 7, 1997 Gibbons Supplemental Report, Missing Person Report, at p. 2.

<sup>126</sup> April 2022 Reed Smith Interview of W. Bender

<sup>127</sup> K. Christopher Interview of L. Covalt at p. 2 (October 15, 2018)

<sup>128</sup> K. Christopher Interview of C. Kidd at p. 4 (November 12, 2018).

<sup>129</sup> Jan. 7, 1997 Cave Report at p. 1.

<sup>130</sup> Affidavit of Tricia Eckhart (Nov. 24, 2019).



## **APPENDIX 5**

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

### Justin Sneed Inconsistent Statements

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
<b>Sneed's Drug Use</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>See below for Sneed's statement before Trial 1.<sup>1</sup></li> <li>Defense: "Isn't it true that you took drugs during the time that you killed Barry Van Treese; yes or no?" Sneed: "<b>Not during the time but days before I had.</b>" Defense: "<b>What kind of drugs did you take, heroin?</b>" Sneed: "<b>Crank.</b>" Trial 1 Testimony of J. Sneed, Vol. 6 at p. 111:21-25.</li> <li>Defense: "Explain to the jury what crank is?" Sneed: "A methamphetamine that's cooked. That's pretty much all that I know about it." Trial 1 Testimony of J. Sneed, Vol. 6 at p. 112:1-3.</li> </ul>	<ul style="list-style-type: none"> <li>See below for Sneed's statement between Trial 1 and Trial 2.<sup>2</sup></li> <li>Sneed: "Marijuana I was [using], but <b>crank I don't think I touched since before Christmas of '96.</b>" Trial 2 Testimony of J. Sneed, Vol. 12 at p. 66:3-4.</li> <li>Defense: "Now, what is crank?" Sneed: "It's methamphetamine." Trial 2 Testimony of J. Sneed, Vol. 12 at p. 196:18-19.</li> </ul>	<ul style="list-style-type: none"> <li>Nov. 17, 2016: Sneed: "Now, as far as me getting high, yes, I smoke marijuana. I smoke methamphetamines on the marijuana. I snorted some while I was at the motel. <b>And I can't 100% tell you that . . . I did any type of drugs before I went to bed that night, or I had been up, I don't, I don't know if it had been two days before I did drugs. I don't know if I did drugs that day.</b>" Radical Media Interview with Justin Sneed (November 26, 2016) at timestamp 16:10:01:00.</li> </ul>
<b>The Staged Robbery</b>	<ul style="list-style-type: none"> <li>Sneed: "<b>[M]y brother . . . had said</b> something, you know, about setting it up some way to where the place looked like it got robbed or something like that." January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 18:1-5.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>See below for Sneed's statement between Trial 1 and Trial 2.<sup>3</sup></li> <li>Sneed: "Well, first <b>[Richard Glossip] started joking about pulling a robbery off</b> and making [the motel] look like it was robbed . . . I think, now that I think about it, he</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

<sup>1</sup> Sneed made a statement about his drug use before Trial 1. A pre-trial competency evaluation from July 1, 1997 notes that Sneed "**admits to using a variety of drugs including marijuana, crank, cocaine, and acid.**" Justin Sneed Competency Evaluation (July 1, 1997).

<sup>2</sup> Between Trial 1 and Trial 2, on January 24, 2000, Lynn Burch visited and interviewed Sneed in prison. A summary of that interview states: "Sneed gave a chilling account of the murder; more graphic than his trial testimony. That evening, Glossip woke Sneed up. **Sneed was just coming down from a two-day meth run and was 'still kind of out of it.'** This, according to Sneed, was why he gave in on this particular night to Glossip's desire to murder Van Treese." L. Burch and M. Haire Interview of J. Sneed (January 24, 2000).

<sup>3</sup> "Sneed told us that he tried to avoid Glossip's persistent requests to murder Van Treese, and **[Sneed] suggested that the money could be gained much easier by staging a robbery.**" *Id.*

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
			<p>did say that my brother approached him with that and then he was approaching me with it, but my brother never approached me saying nothing about that.” Trial 2 Testimony of J. Sneed, Vol. 12 at pp. 73:21-74:10.</p>	
<p><b>How Much Money Glossip Offered Sneed to Kill Barry Van Treese</b></p>	<ul style="list-style-type: none"> <li>Sneed: “Rich told me that he would split what money we could get out of Barry. I think that’s—his name was Barry.” Detective Cook: “Right.” Sneed: “. . . [Glossip] told me that he knew where the money was and that he was sitting on like <b>\$7,000</b>. And so we went into the room.” January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 25:1-12.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: “Mr. Glossip make you any promises as to—what was your incentive to do it? Why did you do it, Justin?” Sneed: “Well, he was telling me that he would give me \$7,000 and then he would rent some rooms off the books and continue to give me other money also.” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 93:4-8.</li> <li>Sneed: “[Glossip] told me that Mr. Van Treese had just got back and that he would give me seven grand to go in and kill him.” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 89:21-23.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: “Now, you told us that he had—had told you he would pay you <b>\$10,000</b>. And you didn’t know where he was going to get that; is that correct?” Sneed: “No, I did not.” Prosecution: “Okay. Have you talked about this amount before?” Sneed: “Not the amount of 10,000, but every time the conversation was coming up it seems like the amount of money to do it for would be going up with it.” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 99:15-22.</li> </ul>	<ul style="list-style-type: none"> <li>June 23, 2016: Sneed: “[Glossip] did increase the amount of moneys every time he was trying to ask me to go do it. Um, and, and murder Mr. Van Treese. He did say that there was <b>\$7500</b> um, that he was gonna give me that night.” Radical Media Interview with Justin Sneed (June 23, 2016) at timestamp 11:03:56:11.</li> </ul>
<p><b>Why Glossip Wanted to Kill Barry Van Treese</b></p>	<ul style="list-style-type: none"> <li>Sneed: “Actually, Rich asked me to kill Barry and that’s what he’d done, yes.” Detective Cook: “Rich asked you to kill Barry?” Sneed: “Yes. So that <b>he could run the motel without him being the boss</b>.” January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 46:6-12.</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: “I got up and he kept asking me on and on to hurry up and do it, and then he was trying to tell me that I was going to get kicked out of the motel and <b>that he was going to get kicked out of the motel</b>.” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 90:17-22. (*Judge Gray noted that</li> </ul>	<ul style="list-style-type: none"> <li>See below for Sneed’s statement between Trial 1 and Trial 2.<sup>5</sup></li> <li>Sneed: “[Glossip] told me at one point that with Mr. Van Treese out of the way that <b>he would be able not only manage the motel on Council but also another one they had, I think it was located in Tulsa . .</b></li> </ul>	<ul style="list-style-type: none"> <li>Sept. 21, 2015: Sneed: “<b>I didn’t know what [Glossip’s] motivation was</b> other than, yeah, he kept begging and pleading with me until the point he literally pushed me over an edge.” Cary Aspinwall Interview with Justin Sneed (September 21, 2015) at p. 2:6-9.</li> </ul>

<sup>5</sup> “Sneed said that Glossip had been pestering him for weeks about killing Van Treese so that Glossip could gain control of the motels.” L. Burch and M. Haire Interview of J. Sneed (January 24, 2000).

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
		<p><b>this testimony was inconsistent with Sneed's prior statements.)<sup>4</sup></b></p> <ul style="list-style-type: none"> <li>“Richard was trying to tell me that with Mr. Van Treese out of the way that he might be able to con the wife of the deceased into letting him run both of the motels, <b>and he would try to get me hired on there to manage one of them.</b>” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 104:13-17.</li> </ul>	<p>.” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 89:5-10.</p> <ul style="list-style-type: none"> <li>Sneed: “[Gossip] told me Mr. Van Treese had just got back to the motel. . . . Was talking about how if Mr. Van Treese got up in the morning and walked around the motel how he was, you know, <b>once [Barry Van Treese] seen a couple of the rooms that were already supposed to be remodeled that weren't that he was going to get fired.</b> And then he started threatening me a little bit saying that he was going to throw me out and I was going with him.” Trial 2 Testimony of J. Sneed, Vol. 12 at pp. 95:18-96:4.</li> </ul>	<ul style="list-style-type: none"> <li>Nov. 17, 2016: Joe Berlinger: “Why was now the time” Sneed: “I don't, I don't understand, and I don't, I don't know it from his perspective on—” Joe Berlinger: “Did he give you a reason?” Sneed: “<b>No, he never gave me a reason on why he wanted his boss dead.</b> The only other thing that he ever tried to tell me that gave me any type of reasoning, was uh, he planned on taking over the motels . . . .” Radical Media Interview with Justin Sneed (November 17, 2016) at timestamp 16:13:36:00.</li> </ul>
<p><b>The Last Time Sneed Saw Barry Van Treese Before the Murder</b></p>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: “Now, on the night that Mr. Van Treese was murdered on January the 7th of 1997, did you see Mr. Van Treese at the motel prior to you going to his room, 102?” Sneed: “Earlier that previous day, around 4:00 or 5:00.”</b> Prosecution: “Sometime in the late afternoon you did see Mr. Van Treese?” Sneed: “Uh-huh.” Prosecution: “And where did you see him?” Sneed: “At the motel.” <b>Prosecution: “What part of the motel?” Sneed: “In the office.”</b></li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: “On January 6th of 1997, did you know that Barry Van Treese was coming to the Oklahoma City motel?” Sneed: “No, I did not.” <b>Prosecution: “Did you ever see him, Barry Van Treese, at the Oklahoma City motel on January 6th, 1997?” Sneed: “No, I did not.”</b> Prosecution: “Did you ever see him, Barry Van Treese, at the Oklahoma City motel on January 6th, 1997?” Sneed: “No, I did not.” <b>Prosecution: “Did you ever see him in the office during his visit?” Sneed: “Not on the 6th, I did</b></li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

<sup>4</sup> Also in Trial 1, Sneed was asked if he knew why Gossip wanted him to kill Barry on that particular night, and he said he did not know (Prosecution: “Was there some particular reason why Mr. Gossip wanted to kill Mr. Van Treese on this particular night?” Sneed: “Not that I know of. Every time that Mr. Van Treese showed up, he was wanting me to kill him.” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 89:15-19).

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
		<p>Prosecution: "Who was in the office with him?" Sneed: "Richard Glossip."            Prosecution: "Now, is that the last time that you saw Mr. Van Treese before you went into his room, 102?"            Sneed: "Yes, ma'am." Trial 1            Testimony of J. Sneed, Vol. 6 at pp. 87:12-88:2.</p>	<p><b>not.</b>" Trial 2 Testimony of J. Sneed, Vol. 12 at p. 93:14-21.</p>	
<p><b>Whether Sneed Knew What Barry Van Treese's Car Looked Like</b></p>	<ul style="list-style-type: none"> <li><b>Detective Cook: "Where did Barry keep his car?" Sneed: "Right there in front of the door."</b>            January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 28:4-7.</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: "Did you know what kind of car Mr. Van Treese was driving back in January 1997?" Sneed: "No, I did not."</b> Trial 1            Testimony of J. Sneed, Vol. 6 at p. 87:9-11.</li> <li>Sneed: "And while I was in my room, the lady that ran the first desk, I believe her name was Billye Cane, I'm not for sure, I can't remember her name, but she called me on the phone and said that the bank—I believe you called it Weokie Credit Union, had just phoned her and said that they wanted to know if somebody could come back there and identify to see if this was Mr. Van Treese's car. And I told her, she <b>asked me if I thought I could identify it, and I told her I didn't think I could.</b>" Trial 1            Testimony of J. Sneed, Vol. 6 at pp. 98:19-99:2.</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: "At the time that you had seen Barry Van Treese these three times, did you—at that time did you know what kind of car he drove?" Sneed: "Yeah, I've seen his car."</b> Prosecution: "As we sit here today, do you remember what kind of car it was?" Sneed: "No. I knew what his car looked like, but I don't know what type, make or model or anything like that." Prosecution: "Was it a car rather than like a van or a pickup truck or?" Sneed: "Yes, ma'am." Trial 2 Testimony of J. Sneed, Vol. 12 at p. 77:9-19.</li> <li><b>Defense: "You were familiar with [Barry Van Treese's] car? Sneed: "Yes, I was." Defense: "I know it's been some time and you probably can't give us an exact make, model, and year, but back then you would have known his car on sight?" Sneed: "On sight, yes." Defense: "And you were familiar where he normally parked his car when he came?" Sneed: "Yes." Defense: "And where was that?" Sneed: "Normally, most of the times</b></li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
			<p>he parked it underneath the awning right alongside Mr. Glossip's car." Defense: "You were aware that he would on occasion spend the night at the motel?" Sneed: "Yes." Defense: "Where would he park his car, to your knowledge, on those nights?" Sneed: "I don't really remember on previous nights other than the night of the 7th." <b>Defense: "And the night of the 7th, did he park it in front of 102?" Sneed: "Yes, he did." . . . Defense: "With his car parked in front of room 102, would that be an indication to you that he may be staying in that room or one of the rooms near that?" Sneed: "Yes, it was."</b> Trial 2 Testimony of J. Sneed, Vol. 13 at pp. 23:20-24:16; 25:14-17.</p>	
<p><b>What Sneed Was Wearing on the Night of the Murder</b></p>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li><b>Sneed: "Because when Mr. Glossip woke me up, I was asleep in a pair of sweat pants."</b> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 112:20-21.</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: "And do you remember what type of clothing you were sleeping in?" Sneed: "No, just my boxers and shirt."</b> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 94:16-18.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<p><b>When Glossip Woke Sneed up on the Night of the Murder</b></p>	<ul style="list-style-type: none"> <li>Sneed: "<b>And we come and woke me up like at three o'clock</b> in the morning and told me that Barry had just got there." January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 25:7-9.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "Now, before you went into Mr. Van Treese's room in the very early morning hours of January the 7th of 1997, did you have a conversation with Mr. Richard Glossip? . . . And when did you have that conversation?" <b>Sneed: "At about 3:30 in the morning."</b> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 88:9-11.</li> </ul>	<ul style="list-style-type: none"> <li><b>Sneed: "[Glossip came] into my room at 3:00 in the morning."</b> Trial 2 Testimony of J. Sneed, Vol. 13 at p. 93:22-23.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

Legend: Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are highlighted in yellow.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
<p><b>Whether Gossip Called Sneed or Came over to Wake Him up on the Night of the Murder</b></p>	<ul style="list-style-type: none"> <li>Sneed: <b>“And we come and woke me up like at three o’clock in the morning and told me that Barry had just got there.”</b> January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 25:7-9.</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: “How did you two, the two of you get together at 3:30 in the morning? How did that come about?” Sneed: “He called me and woke me up</b> and told me that Mr. Van Treese had just gotten back from going to Tulsa, I believe, and then he was coming back and he told me that Mr. Van Treese had just got back and that he would give me seven grand to go in and kill him.” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 88:19-23. (*Judge Gray noted that this testimony was inconsistent with Sneed’s prior statements.)</li> <li>Sneed: “That’s what Mr. Gossip had told me. He said when he come to my room to let me know or to wake me up and tell me that Mr. Van Treese had just got there and for me to go kill him . . .” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 113:5-8.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: “And how was it that you—you were asleep in your room. How was it that you found out that Barry Van Treese was there?” Sneed: <b>“Because Mr. Gossip come to my room banging on my door.”</b> Prosecution: <b>“Did he call you first?”</b> Sneed: <b>“Well, he asked me why I wouldn’t answer my phone because he had been trying to call me, but I just never did hear it ring.”</b> Prosecution: “Okay. So did you get the impression he had been trying to call you right then—” Sneed: “Yes.” Prosecution: “—before he came to your room?” Sneed: “Yes.” Prosecution: “Okay. So he banged on the door, but that did wake you up?” Sneed: “Yeah.” Prosecution: “Is that a yes?” Sneed: “Yes, ma’am.” Trial 2 Testimony of J. Sneed, Vol. 12 at pp. 94:19-95:11.</li> </ul>	<ul style="list-style-type: none"> <li>June 23, 2016: Joe Berlinger: “So he didn’t call you it’s time to— before he came in his, came in your room, did he call you first?” Sneed: “No, he might of um, I’m pretty sure that’s not a statement that I, I made. <b>Um, now he might have tried to call me</b>, um, in any statements that he made or whatever, and that might have been why he came to my room so adamant, because I wouldn’t wake up to the phone.” Radical Media Interview with Justin Sneed (June 23, 2016) at timestamp 11:01:59:09.</li> <li>June 23, 2016: Sneed: “And um, I don’t even rem—really remember him knocking, I mean, he might have knocked a little bit, and maybe I was just too asleep that um, <b>I wasn’t hearing it. Um, but of course he had master keys, so all I do is remember waking up to him being you know, in my face, waking me up</b>, talking about hey, get up and all this and that.” Radical Media Interview with Justin Sneed (June 23, 2016) at timestamp 10:48:30:17.</li> </ul>

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Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
<p><b>Why Sneed Agreed to Kill Barry Van Treese</b></p>	<ul style="list-style-type: none"> <li>Detective Cook: “Rich asked you to kill Barry?” Sneed: “Yes. So that he could run the motel without him being the boss.”</li> <li>Detective Cook: “And in exchange for doing this?” Sneed: “I would get <b>seven grand</b> and (inaudible).”</li> <li>Detective Cook: “You get all of it or you just split it?” Sneed: “Well . . . from then on out <b>he said he was going to rent rooms off the books and keep money back and everything and slide me some on the side.</b>”</li> <li>Detective Cook: “So in addition you’re going to get—feather your nest, so to speak?” Sneed: “Yeah.”</li> <li>January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 46:9-47:3.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: “What made you decide to do it?” Sneed: “<b>I really don’t know. I guess I let my pride get a little bit in the way.</b>” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 91:19-21.</li> <li>Prosecution: “Mr. Glossip make you any promises as to—what was your incentive to do it? Why did you do it, Justin?” Sneed: “Well, <b>he was telling me that he would give me \$7,000 and then he would rent some rooms off the books and continue to give me other money also.</b>” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 93:4-8.</li> <li>Sneed: “<b>It was never really, the money never really was on my mind for it. I was just going along with everything he said basically.</b>” Trial 1 Testimony of J. Sneed, Vol. 6 at p. 96:13-15.</li> <li>Sneed: “<b>I ended up doing it because I did not want to leave the motel at the time, yes, sir.</b>” Defense: “And that you were going to have to go out and get a job, right?” Sneed: “Well, I guess that would be the only thing to do if I left that motel.” Trial 1</li> </ul>	<ul style="list-style-type: none"> <li>See below for Sneed’s statement between Trial 1 and Trial 2.<sup>6</sup></li> <li>Sneed: “But the more [Glossip] came at it with me, you know, it started, you know, giving more and more attention to his, the way he brought it to me and, you know, I don’t know, <b>I just kind of got to where I really wasn’t seeing no out.</b>” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 88:6-10.</li> <li>Prosecution: “Had you decided you were going to do it [the night of the murder]?” Sneed: “At that point I felt like I had no other option.”</li> <li>Prosecution: “You had no other option than to kill another human being?” Sneed: “Yeah.”</li> <li>Prosecution: “Okay. Mr. Sneed, explain that to us.” Sneed: “I don’t really know. That’s just what I felt. I just felt like, you know—I <b>don’t know, maybe it was just the person in me or the scare test.</b>”</li> <li>Prosecution: “<b>Who was scaring you?</b>” Sneed: “<b>The way Glossip was raising his voice at me and telling me to do it.</b>” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 100:3-14.</li> </ul>	<ul style="list-style-type: none"> <li>Nov. 17, 2016: Joe Berlinger: “So even though you were tired, you were not drugged. You were clear-headed. So it was more the psychology of, as opposed to like—” Sneed: “Yeah, it was more the manipulation and psychology of uh, of him pushing me into giving him his will.” . . . Joe Berlinger: “What was different the night that you capitulated to him?” Sneed: “<b>Well see, the, the thing about the drugs . . .</b> I don’t know if it had been two days before I did drugs . . . I don’t know if I did drugs that day.”</li> <li>Radical Media Interview with Justin Sneed (November 17, 2016) at timestamps 11:01:59:09; 16:09:21:00.</li> </ul>

<sup>6</sup> “Sneed gave a chilling account of the murder; more graphic than his trial testimony. That evening, Glossip woke Sneed up. **Sneed was just coming down from a two-day meth run and was ‘still kind of out of it.’ This, according to Sneed, was why he gave in on this particular night to Glossip’s desire to murder Van Treese.**” L. Burch and M. Haire Interview of J. Sneed (January 24, 2000).



**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
		Testimony of J. Sneed, Vol. 6 at p. 111:10-15.		
<p><b>How Many Times Sneed Hit Barry Van Treese During the Murder</b></p>	<ul style="list-style-type: none"> <li>Sneed: "I just only like hit him <b>two or three times. I figured I would just knock him out.</b>" January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 31:14-16.</li> <li>Sneed: "He danced around a little bit and then I kind of knocked him to where he was down on the floor and then <b>I tapped him a couple more times</b> and when he quit moving I kind of left him alone because I figured he was knocked out." January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 32:21-33:1.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "Do you know how many times you hit him?" Sneed: "No, I don't. <b>Maybe about 10 or 15</b>, I guess." Prosecution: "Did you hit him because you intended for him to die?" Sneed: "Yes, I did." Prosecution: "And why did you intend for him to die?" Sneed: "Because Richard Glossip was telling me to go in there and kill him or asking me to go in there and kill him." Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 92:22-93:3. <b>(*Judge Gray noted that this testimony was inconsistent with Sneed's prior statements.)</b></li> </ul>	<ul style="list-style-type: none"> <li>See below for Sneed's statement between Trial 1 and Trial 2.<sup>7</sup></li> <li>Prosecution: "How many times did you hit him with the baseball bat?" Sneed: "I don't really recall, but I'd say probably <b>seven or eight.</b>" Prosecution: "Okay. A bunch?" Sneed: "Yeah." Trial 2 Testimony of J. Sneed, Vol. 12 at p. 113:4-8.</li> <li>Defense: "How many times total do you think you hit Mr. Van Treese?" Sneed: "I don't know. <b>Probably at a maximum, 10.</b>" Defense: "The most 10? And when you say 'hit him,' that could be any part of his body?" Sneed: "Mainly head shots. I didn't really try to hit him in any other area." <b>Defense: "How many head shots do you think you gave him with that bat?" Sneed: "Probably close to seven or eight."</b> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 223:2-11.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

<sup>7</sup> "As Van Treese lay on the floor, **Sneed continually beat him with the bat**. Sneed waited until Van Treese stopped breathing before leaving the room out of fear that Van Treese would become conscious again and escape." *Id.*

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
<p><b>Whether Sneed Meant to Kill Barry Van Treese</b></p>	<ul style="list-style-type: none"> <li>Sneed: "I just only like hit him two or three times. <b>I figured I would just knock him out.</b>" January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 31:14-16.</li> <li>Sneed: "<b>[W]hen he quit moving I kind of left him alone because I figured he was knocked out.</b>" January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 32:24-33:1.</li> <li>Sneed: "<b>[E]verything kind of got out of control . . .</b>" January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 28:11.</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: "Did you hit him because you intended for him to die?" Sneed: "Yes, I did."</b></li> <li>Prosecution: "And why did you intend for him to die?" Sneed: "Because Richard Glossip was telling me to go in there and kill him or asking me to go in there and kill him." Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 92:22-93:3.</li> </ul>	<ul style="list-style-type: none"> <li>See below for Sneed's statement between Trial 1 and Trial 2.<sup>8</sup></li> <li><b>Prosecution: "You wanted to kill him while he was asleep?" Sneed: "Yes."</b> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 102:20-21.</li> <li><b>Prosecution: "Was it your intention when you went into room 102 to kill Barry Van Treese?" Sneed: "Yes, ma'am."</b> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 113:9-11.</li> <li>Prosecution: "Did you do anything to monitor whether or not he was still breathing?" <b>Sneed: "No, but just before I left I made sure that he wasn't breathing."</b></li> <li>Prosecution: "How did you do that?" Sneed: "I just—I mean after I hit him a few more times and then looked at him I could tell he wasn't breathing."</li> <li>Prosecution: "Did you stand over him? Did you kneel beside him? Did you sit down? What did you do?" <b>Sneed: "I sat down in the chair for a few minutes</b> after I hit him a few more times and then, you know, I thought about everything for a second and then looked at him. I could tell that he wasn't bleeding—</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

<sup>8</sup> "I asked Sneed to explain his statements in his police interview that seemed to indicate that Van Treese's death was really an accident, i.e. that he was supposed to just be knocked out, not killed. Sneed smiled and [sic] said that was just his way of trying to protect himself. He intended to kill Van Treese from the moment he went into the room that night." *Id.*

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
			<p>or breathing. Sorry. And then that's when I left the room." Trial 2 Testimony of J. Sneed, Vol. 12 at p. 118:6-10.</p> <ul style="list-style-type: none"> <li>Defense: "Now, when you were talking to Detectives Bemo and Cook about your actions with Mr. Van Treese, <b>do you recall initially telling them that you only intended to knock him out and then later told them, 'I intended to kill him'?</b>" Sneed: "Yes." Trial 2 Testimony of J. Sneed, Vol. 13 at p. 35:11-15.</li> </ul>	
<p><b>Whether Sneed Attempted to Stab Barry Van Treese During the Murder</b></p>	<ul style="list-style-type: none"> <li>Detective Cook: "Did you end up stabbing him once with that knife?" Sneed: "[pause] Huh-uh." January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 61:20-22.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: "And then at one point—at that point I tried to—I <b>took my knife out of my pocket and tried to force it through his chest</b> but it didn't go, and then that caused him to roll over onto his stomach to where his back was facing the ceiling and then I hit him quite a few more times with the baseball bat." Trial 2 Testimony of J. Sneed, Vol. 12 at p. 102:3-8.</li> <li>Prosecution: "And [the detectives] asked you if you stabbed Mr. Van Treese with a knife. Do you remember that?" Sneed: "Yes." Defense: "And what was your answer?" Sneed: "I told them I did not." Prosecution: "Well, let me ask you. Did you stab Mr. Van Treese with a knife?" Sneed: "Yes, I did." Trial 2 Testimony of J. Sneed, Vol. 13 at p. 76:13-20.</li> </ul>	<ul style="list-style-type: none"> <li>June 23, 2016: Sneed: "I was . . . adamant about not telling the police about whether um, I used a knife or not um, and then <b>I came clean about it, because that was the only way that he could have got those marks.</b>" Radical Media Interview with Justin Sneed (June 23, 2016) at timestamp 11:20:34:22.</li> </ul>

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Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
<p><b>Whether Sneed Went to the Office Immediately after the Murder</b></p>	<ul style="list-style-type: none"> <li>Sneed: "And then Rich told me after I got the keys to come back up to the office, <b>so I went back up to the office.</b>" January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 35:19-21.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "After Mr. Van Treese died, what did you do?" <b>Sneed: "I went to the office."</b> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 93:13-14.</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: "After I attacked him and was pretty for sure that he was dead <b>I went back to my room and took off the clothes that I had on because I had blood on them and changed over into some cleaner clothes and then went back and beat on the side wall of his bedroom.</b>" Trial 2 Testimony of J. Sneed, Vol. 12 at p. 117:4-8.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<p><b>Whether Sneed Rang Glossip's Buzzer or Knocked After the Murder</b></p>	<ul style="list-style-type: none"> <li>Detective Cook: "Okay. So at 4:30 or 5:00 you go back to the office and Rich is still—is the office unlocked?" <b>Sneed: "Well, no. He made me lock it and I just rang the buzzer and he come up there."</b> Transcript 36:20-25.</li> <li>Detective Cook: "<b>Now then, when you got to the office you rang the bell and you rang the bell as opposed to knocking on the door?</b>" <b>Sneed: "Yes. There's a little door bell there."</b> January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 41:12-16.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "<b>After Mr. Van Treese died, what did you do?</b>" <b>Sneed: "I went to the office and knocked on the side wall of Mr. Glossip's room</b> because he had told me to come let him know when it was done." Prosecution: "And did Mr. Glossip get up an answer the door?" <b>Sneed: "Well, I had to go around and I rang the buzzer, and then he got up and come to the door."</b> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 93:13-19. <b>(*Judge Gray noted that this testimony was inconsistent with Sneed's prior statements.)</b></li> </ul>	<ul style="list-style-type: none"> <li>Sneed: "After I attacked him and was pretty for sure that he was dead <b>I went back to my room . . . and then went back and beat on the side wall of [Glossip's] bedroom and then came around front, and when he didn't come out I started ringing the doorbell buzzer and then finally he came out.</b>" Trial 2 Testimony of J. Sneed, Vol. 12 at p. 117:4-10.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<p><b>Whether Sneed and Glossip Simply Peeked at Room 102 after the Murder</b></p>	<ul style="list-style-type: none"> <li>Detective Cook: "Okay. And then the two of you go back downstairs and you say to check on Barry?" Sneed: "Yeah. <b>We went and peeked the door open to see if he got up or anything.</b>" January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 45:3-45:8.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "<b>How long did you all stay in there?</b>" <b>Sneed: "I don't know, maybe for about 20 minutes . . ."</b> Trial 1 Testimony of J. Sneed, Vol. 6 at p. 94:22-23. <b>(*Judge Gray noted that this testimony was inconsistent with Sneed's prior statements.)</b></li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "So you go in, and what happened once you got inside the room?" Sneed: "He looked around and then he was like, okay, we need to find his car keys to be able to move his car, then <b>I found his car keys in his pocket and also his wallet, and he opened Mr. Van Treese's wallet and seen that a hundred dollar bill was in there and</b></li> </ul>	<ul style="list-style-type: none"> <li>Nov. 17, 2016: Sneed: "Um, but then I let him take half of the money. Uh, when he came to my room, uh, <b>he came in the room with Mr. Van Treese and uh...did a little examination, just you know, kind of overlooked the body a little bit.</b>" Joe Berlinger: "Did he touch him?" Sneed: "No, I don't, I don't think he ever</li> </ul>

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
			<p><b>he took that out</b>, and then he told me to move the car around to the bank parking lot and the money I was looking for would be under the front seat of Mr. Van Treese’s car.” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 123:22-124:6.</p>	<p>touched him, I just think he just kind of, you know, made some little looks around, because I had already put the sheet over him.” Radical Media Interview with Justin Sneed (November 17, 2016) at timestamp 15:59:36:00.</p>
<p><b>When Sneed Took Barry Van Treese’s Keys After the Murder</b></p>	<ul style="list-style-type: none"> <li>• <b>Sneed: “I kind of left him alone because I figured he was knocked out.” Detective Cook: “Then what, did you get the keys?” Sneed: “Yes.”</b> Detective Cook: “Okay. Where were they?” Sneed: “They were in his pants pockets.” January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 32:25-33:8.</li> <li>• Detective Cook: Now when you say keys are we talking just a key, several keys?” Sneed: “It was like a set of keys. I couldn’t tell you how many keys. It was probably 25 keys on there.” . . . Detective Bemo: “What about his car keys?” Sneed: “They were on there.” January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 33:9-34:5</li> <li>• Detective Cook: “You get the keys out, then what?” Sneed: <b>“And then Rich told me after I got the keys to come back up to the office, so I went back up to the office.”</b> January 14, 1997 Police</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• Sneed: “[Glossip] wanted to walk over to the room and make sure, so we went into the room, back into 102.” Prosecution: “All right. And when you say ‘we,’ you mean you and Mr. Glossip?” Sneed: “Yes, ma’am” . . . <b>Prosecution: “So you go in, and what happened once you got inside the room?” Sneed: “He looked around and then he was like, okay, we need to find his car keys to be able to move his car, then I found his car keys in his pocket . . . .”</b> Trial 2 Testimony of J. Sneed, Vol. 12 at pp. 123:8-124:1.</li> </ul>	<ul style="list-style-type: none"> <li>• June 23, 2016: Joe Berlinger: “And then the other, the other thing they, they talk about is the car keys. You know, like when you know, did you grab the keys after the murder? Or ... did you take them at the time of the – you know, the car keys.” <b>Sneed: “I took, I took Mr. Van Treese’s car keys after Glossip told me to go get the money out of the front seat of his car. And um ... and then that’s when I went in the room and um, retrieved the keys.”</b> Radical Media Interview with Justin Sneed (June 23, 2016) at timestamp 11:21:31:20.</li> </ul>

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Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
	Interrogation Transcript of J. Sneed, at p. 35:17-21.			
<b>Whether Sneed and Glossip Retrieved the Money from Barry Van Treese’s Car Together</b>	<ul style="list-style-type: none"> <li>Sneed: “[Gossip] made me lock [the office] and I just rang the buzzer and he come up there. And then <b>we went and got the money out of the car . . .</b>” Transcript 36:23-1.</li> <li>Detective Cook: “Did you take—and where was he when you got the money?” Sneed: “Well, <b>he walked around there with me</b> but I unlocked the door and everything <b>and Rich’s in there.</b>” January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 44:12-16.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: “Now, did Mr. Sneed—what happened after you moved the car?” Sneed: “<b>Mr. Glossip told me where the money was located in the car which was under the front seat. He told me when I was through moving the car to call him again</b>, so I went back to my room after getting the money out of the front seat and I called him and told him that I was back from moving the vehicle.” Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 95:19-96:1. (*Judge Gray noted that this testimony was inconsistent with Sneed’s prior statements.)</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: “So did you go back to your room like you were supposed to go to?” Sneed: “Yes, ma’am.” <b>Prosecution: “When you got back to your room, did you call Richard Glossip like you were supposed to?”</b> Sneed: “Yes, ma’am.” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 127:12-17.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<b>The Timing of Sneed Moving Barry Van Treese’s Car</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: “[W]e went back in there and taped the shower curtain over the window.” . . . Prosecution: “When you left the room again, where did you go?” Sneed: “I moved his car from the motel parking lot to the bank parking lot.” . . . Prosecution: [W]hat happened after you moved the car?” Sneed: “Mr. Glossip told me where the money was located in the car which was under the front seat.” Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 94:25-95:22.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: “What happened after you all divided the money?” Sneed: “We went back to the room and then that is where we did a little bit of minor clean up . . . I taped, duct taped the shower curtain up . . .” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 130:1-9.</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
<b>Whether Sneed and Glossip Split the Money</b>	<ul style="list-style-type: none"> <li>Detective Bemo: “So did you count the money there to see how much was in the—that he</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: “He come back down to my room and the money ended up only being \$4,000, and then he was</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: “I showed him that I had the money and we counted it and he decided that he wanted to</li> </ul>	<ul style="list-style-type: none"> <li>June 23, 2016: Sneed: “[T[hen when I brought [the money] back to the room and then</li> </ul>

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Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
<p><b>without Counting It</b></p>	<p><b>had there and then split it up equally?" Sneed: "No. We just kind of tossed like—like a—like a grand here and then we tossed a grand there and then we just kind of divided it like into two piles and never really counted it."</b>            Detective Bemo: "So you got close to 2,000 a piece?" Sneed: "Yes."            January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 37:5-25.</p>	<p>wanting to split the \$4,000 with me, so I split, you know, so we ended up both walking out of my room with about 2,000" Trial 1 Testimony of J. Sneed, Vol. 6 at p. 96:5-8.</p>	<p><b>take half of it."</b> Trial 2 Testimony of J. Sneed, Vol. 12 at p. 129:23-24.</p>	<p>he came back to the room, um, he asked where the money was at, and um, I just pointed over to my bed because I just chucked it on there, <b>and he started digging through the money and counting it off</b> and um, and took half of it and put it in his pocket and started making me a whole bunch of other promises." Radical Media Interview with Justin Sneed (June 23, 2016) at timestamp 11:05:08:07.</p>
<p><b>Whether Sneed and Glossip Taped up the Shower Curtain Together</b></p>	<ul style="list-style-type: none"> <li>Sneed: "[W]e taped a shower curtain up over the inside of the window while we was there, yeah." Detective Cook: "Both of you or just you, just him?" Sneed: "Yes. <i>We both</i> taped it up there." January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 52:9-14.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "How long did you all stay in there?" Sneed: "I don't know, maybe for about 20 minutes, and then we left and we went in 101 and got a shower curtain, and then when we went back in there and taped the shower curtain over the window." Prosecution: "And Mr. Glossip assisted you with that?" Sneed: "No, basically he just watched." Trial 1 Testimony of J. Sneed, Vol. 6 at pp. 94:22-95:3. (*Judge Gray noted that this testimony was inconsistent with Sneed's prior statements.)</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: "I taped, duct taped the shower curtain up." Trial 2 Testimony of J. Sneed, Vol. 12 at p. 130:-7</li> </ul>	<ul style="list-style-type: none"> <li>Nov. 17, 2016: Sneed: "Well, I [taped the shower curtain up] under his guidance." Radical Media Interview with Justin Sneed (November 17, 2016) at timestamp 11:12:28:20.</li> </ul>
<p><b>Sneed Comes up with the Idea of Taping up the Shower Curtain</b></p>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "How about the shower curtain, getting it and putting it up over the window, whose idea was it that you needed to do something to cover the window?" Sneed: "Richard. He decided that we needed to do something to try to fix the window,</li> </ul>	<ul style="list-style-type: none"> <li>Nov. 17, 2016: Sneed: "[Glossip is] the one that suggested about tearing down, uh, a shower curtain to tape it up over the window, um, that had been broken. Uh . . ." Joe Berlinger: "Who did that?" Sneed: "Well, I did it under his guidance."</li> </ul>

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Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
			<p>which, you know, was really no argument there because that was kind of, you know, the window needed to be fixed and all of that. And so we went over to 101 and we was looking for something to be able to cover the window up and <b>that's when I walked back into the bathroom part of that room and told him, I said, 'Well, how about we just take this shower curtain?'</b>"</p> <p>Trial 2 Testimony of J. Sneed, Vol. 12 at p. 132:1-11.</p>	<p>Radical Media Interview with Justin Sneed (November 17, 2016) at timestamp 15:59:54:00.</p>
<p><b>Whether Sneed and Glossip Put up the Plexiglass Together</b></p>	<ul style="list-style-type: none"> <li>Detective Cook: "Okay. So you brought the Plexiglas back and what did you do?" Sneed: "And <b>we siliconed it around the—the other window.</b>" Detective Cook: "You say we, you and Rich <b>both did?</b>" Sneed: "Yes." January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 51:24-52:4.</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: "I come back and me and Mr. Glossip stood at the window, and <b>while I held the plexiglass up on the window, he siliconed it.</b>" Trial 1 Testimony of J. Sneed, Vol. 6 at p. 97:6-8.</li> </ul>	<ul style="list-style-type: none"> <li>Prosecution: "So you get back to 102 and you put—you silicone the plexiglass up on the window?" Sneed: "Yes, ma'am." Prosecution: "Okay. Now, were you carrying the plexiglass or was Mr. Glossip?" Sneed: "I was carrying the plexiglass." . . . Prosecution: "Okay. <b>Who was carrying the silicone?</b>" Sneed: "I was." Prosecution: "And then you all siliconed the plexiglass up there?" Sneed: "Yes, ma'am." Trial 2 Testimony of J. Sneed, Vol. 12 at p. 151:6-20.</li> </ul>	<ul style="list-style-type: none"> <li>Sept. 21, 2015: Sneed: "[W]hen I say that he helped me fix the window, <b>he was just standing there guiding me to fix the window.</b> And everything that I said that I might have implemented [sic] to where we were doing it, it was him there directing me to what to do." Cary Aspinwall Interview with Justin Sneed (September 21, 2015) at p. 6:8-13.</li> </ul>
<p><b>Whether Glossip Called Sneed or Came to His Room to Tell Him to Leave the Motel</b></p>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: "Mr. Glossip come to me and was telling me that I needed to leave, that I needed to leave the motel . . . And then about 15 minutes later he <b>calls back down to my room telling me I need to leave again.</b>" Trial 1 Testimony of J. Sneed, Vol. 6 at p. 100:9-16. (*Judge Gray</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: "[Glossip] seen me walking the top tier and came running up the stairs to—and was telling me that I needed to leave and that I needed to leave right now, that no matter what I just needed to get my stuff and leave." Trial 2</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>



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Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
		<p>noted that Sneed raised this testimony for the first time in Trial 1.)</p> <ul style="list-style-type: none"> <li>Sneed: "And then after I went down to my room and Mr. Glossip went back to the office <b>and then he come back 15 minutes later trying to run me off again.</b>" Trial 1 Testimony of J. Sneed, Vol. 6 at p. 119:15-17.</li> </ul>	<p>Testimony of J. Sneed, Vol. 12 at p. 159:1-4.</p> <ul style="list-style-type: none"> <li>Prosecution: "So did you leave right away?" . . . Sneed: "I was just sitting there and I was smoking back to back cigarettes and then <b>he come back to my room because I hadn't even left yet.</b>" Trial 2 Testimony of J. Sneed, Vol. 12 at p. 159:13-23.</li> </ul>	
<p><b>What Time Sneed Left the Motel</b></p>	<ul style="list-style-type: none"> <li>Detective Cook: "So when is it you cut out then?" Sneed: "When I left the motel?" Detective Cook: "Yes." Sneed: ". . . I guess <b>2:00 or 3:00 that afternoon</b>, that next day." January 14, 1997 Police Interrogation Transcript of J. Sneed, at p. 57:18-25.</li> </ul>	<ul style="list-style-type: none"> <li>Sneed: "What time did I leave? I don't know, approximately <b>3:30, 4:00.</b>" Trial 1 Testimony of J. Sneed, Vol. 6 at p. 118:10-11.</li> </ul>	<ul style="list-style-type: none"> <li>Defense: "What time do you believe that you left the Best Budget Inn approximately?" Sneed: "<b>Probably around 11:00</b>, I know, on the 7th." Trial 2 Testimony of J. Sneed, Vol. 13 at p. 10:18-20.</li> <li>Defense: "When did you say you left the hotel again on the—" Sneed: "<b>Around noon.</b>" Trial 2 Testimony of J. Sneed, Vol. 13 at p. 41:25-43:1.</li> <li>Defense: "But it's clear in your mind that it was <b>some time before noon</b> when you left Best Budget Inn?" Sneed: "<b>Yes.</b>" Trial 2 Testimony of J. Sneed, Vol. 13 at p. 55:4-6.</li> <li>Prosecution: "Now, here is the big mystery . . . [in] all the other testimony . . . you . . . put the time of his arrival at about 3. Okay? In the afternoon. You tell us and you've always told us that you left about noon?" Sneed: "Yes." Prosecution: "Okay? Well, that doesn't mesh,</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are highlighted in yellow.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
			<p>right?" Sneed: "Yes." Prosecution: "Because if [Glossip] didn't get back there by 3 and you left at noon, if we're looking at the clock, you would have left before him?" Sneed: "Yes." Prosecution: "Okay. All right. <b>Do you think maybe you left after noon?"</b> Sneed: "Yes." Prosecution: "Could it be?" Sneed: "Yes." Trial 2 Testimony of J. Sneed, Vol. 13 at pp. 68:16-69:6.</p> <ul style="list-style-type: none"> <li>Prosecution: "Mr. Sneed, I believe before break we were talking about the time when Mr. Glossip arrived back from Wal-Mart, and I told you that the reason that you were being asked so many questions was because other witnesses had said it was 3. <b>And you have always maintained that you left about noon, right?"</b> Sneed: "Yes, ma'am." Prosecution: "And you still maintain that, right?" Sneed: "Yes, ma'am." Prosecution: "Even though I've told you about the timing and about the testimony of other witnesses and even though you're under a cooperation agreement and you know there might be ramifications, you're still going to maintain it's noon. That's your answer, right?" Sneed: "Yes, ma'am." Prosecution: "Okay. And it's always been your answer, right?" Sneed: "Yes, ma'am." Trial 2 Testimony of J. Sneed, Vol. 13 at pp. 73:14-74:5</li> </ul>	

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are **highlighted in yellow**.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
<p><b>Whether Sneed and Glossip Divided Up Their Duties Regarding the Murder</b></p>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: “Did you and Mr. Glossip ever have any discussion concerning whose job was to be what?” Sneed: “No, basically it was just wanting me to do everything.”</b> Trial 2 Testimony of J. Sneed, Vol. 6 at p. 97:2-4.</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: “You tell [the officer] it was your job to take out Barry Van Treese and Richard Glossip’s job to clean up the mess?” Sneed: “Yes, ma’am.” Prosecution: “And he didn’t do a very good job?” Sneed: “Yes, ma’am.”</b> Prosecution: “And that was on January 14th, 1997?” Sneed: “Yes, ma’am.” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 190:1-7.</li> </ul>	<ul style="list-style-type: none"> <li>Nov. 17, 2016: Joe Berlinger: “You all didn’t have a plan?” Sneed: <b>“Well now, I didn’t have a plan, because, because he kept presenting it to me. Um, I can only assume in my mind that he, um, had everything planned out.</b> That’s why I went back to him and I asked him what he wanted to do now.” Radical Media Interview with Justin Sneed (November 17, 2016) at timestamp 15:59:04:00.</li> </ul>
<p><b>Whether Sneed Told the Police that His Job Was to Kill Barry Van Treese and Glossip’s Job to “Clean It Up” Before His Police Interview</b></p>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li><b>Prosecution: “You tell [the officer] it was your job to take out Barry Van Treese and Richard Glossip’s job to clean up the mess?” Sneed: “Yes, ma’am.” Prosecution: “And he didn’t do a very good job?” Sneed: “Yes, ma’am.”</b> Prosecution: “And that was on January 14th, 1997?” Sneed: “Yes, ma’am.” . . . . <b>Prosecution: “Okay. Then you go talk to the detectives, right?” Sneed: “Yes.”</b> Prosecution: “And we’re still, that same day, January 14th, 1997, right?” Sneed: “Yes.” Trial 2 Testimony of J. Sneed, Vol. 12 at p. 190:1-20.</li> <li>Defense: “You’ve indicated that at some point in time you made the statement, ‘It was my job to take him out and his job to clean it up.’” Sneed: “Yes.” Defense: “Something to that effect, right?” Sneed: “Yes.” <b>Defense: “That was after your questioning with Detective Bemo</b></li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

**Legend:** Inconsistent statements are **bolded**; inconsistencies noted by Judge Gray after Trial 1 are highlighted in yellow.

Topic	Police Interview	Trial 1	Trial 2	Post-Trial 2 Statements
			<b>and Cook?" Sneed: "I believe so."</b> Trial 2 Testimony of J. Sneed, Vol. 13 at p. 11:11-19.	

## **APPENDIX 6**

### List of People Justin Sneed Spoke to About the Murder

Witness	Approximate Time of Communication	Document	Witness Account of What Justin Sneed Stated
Margaret Humphrey  (BBI Guest and Maid)	A couple of weeks before the murder, December 1996	November 24, 2019 Affidavit of Margaret Humphrey	<ul style="list-style-type: none"> <li>• Humphrey once overheard the maintenance man, who she identified as Sneed, yelling at Mr. Van Treese about not getting paid.</li> <li>• That same day, Humphrey overheard Sneed discussing Mr. Van Treese with another man, who she stated was not Richard Glossip.</li> <li>• Sneed said that Mr. Van Treese “was going to get what was coming to him.”</li> <li>• Sneed stated that he was “going to rob and kill Barry” when Mr. Van Treese came back on payday. Sneed said he would “get what was owed to him.”</li> </ul>
Tricia Eckhart  (BBI Guest and Maid)	Late December 1996	November 24, 2019 Affidavit of Tricia Eckhart	<ul style="list-style-type: none"> <li>• Eckhart overheard Sneed on the phone talking about Mr. Van Treese.</li> <li>• Sneed said over the phone that Mr. Van Treese was “going to get what he deserved.”</li> </ul>
<b>Murder of Barry Van Treese 1/7/1997</b>			
Roberta Reyes (Sneed’s grandmother)	~time of arrest	September 9, 2015 Affidavit of Roberta Reyes  August 12, 2015 Affidavit of Roberta Reyes	<ul style="list-style-type: none"> <li>• Sneed has written Reyes letters from prison. Just a few days after his arrest, he sent her a letter from the jail. In that letter, Sneed talked about being involved in the murder. Sneed also said there were others involved, and wrote, “You won’t believe who!” Sneed made it seem like there were really powerful and important people involved in this crime. This led Reyes to wonder, “How high up does this go?” Reyes was really surprised when it turned out Glossip was the only one charged; she still thinks there may have been other people involved in the murder.</li> <li>• “Roberta asked [Don Knight] if she could tell me something that happened to her that wasn’t in the police reports. Roberta said that when Justin was first arrested and being interrogated, the police called her. Roberta said the police told her that if Justin did not tell the truth, he was going to get the death penalty. Roberta said the police told her that if Justin did not tell them who else was involved in the murder, that Justin would get the death penalty. Roberta said she told the police to tell Justin that his mother wanted him to tell the truth. The police did not allow Roberta to speak to Justin that day. Roberta said Justin told her later that Richard was a good friend of his, and he did not want to turn Richard into the cops. Roberta said the cops left Justin with no choice, though, and he had to tell the police about Richard’s role in the murder.”</li> </ul>

Witness	Approximate Time of Communication	Document	Witness Account of What Justin Sneed Stated
<p>Richard Paige  (cell mate of Sneed, involved around the Best Budget Inn)</p>	<p>Sometime while they were both in jail</p>	<p>August 17, 2015 Interview of Richard Paige</p>	<ul style="list-style-type: none"> <li>• When Paige shared a jail cell with Sneed, he asked why Sneed was in jail, and “he said he was there on a murder charge.”</li> <li>• Sneed told Paige “Richard told [him] if [he] did not do this, [he] was gonna be out of a job, out of a place to live. They were supposed to split the money, but it didn’t get split. [Justin] didn’t get what he was supposed to.”</li> <li>• Paige stated, “It was Justin told me what happened. That if he didn’t do this, he was gonna be put out.”</li> <li>• Paige said, “As far as who comes up with the idea, it was Richard Glossip, and he had Justin do it.” Paige may have learned this information, “[t]he first time, when [he] was arrested, [he] was taken to a room and questioned” by the police.</li> </ul>
<p>Willie Ed Logan (in holdover cell at Oklahoma County Jail with Sneed)</p>	<p>January 14, 1997</p>	<p>January 14, 1997 Police Report of D. Jacobson Regarding Willie Ed Logan</p>	<ul style="list-style-type: none"> <li>• Logan was booked for drug charges by Officer David Jacobson on January 14, 1997; he was placed in the holdover cell.</li> <li>• Logan told Officer Jacobson “Did you know that white guy murdered someone?” Jacobson responded no.</li> <li>• Logan said the only white male in the holdover, Sneed, told him he was booked for murder after killing his manager with a baseball bat the week before. Logan thought he said Tuesday. Logan thought he said it happened at a motel, possibly “Best” motel. Logan said Sneed told him “they both embezzled some money.” Logan/Sneed did not specify whom “they both” consisted of.</li> </ul>
<p>Terry Allen Cooper  (Inmate at Oklahoma County Jail with Sneed and Glossip)</p>	<p>Early 1997</p>	<p>May 3, 2018 Declaration of Terry Allen Cooper</p>	<ul style="list-style-type: none"> <li>• Cooper was an inmate in the Oklahoma County Jail, housed in the same pod (A or B) with Sneed.</li> <li>• Cooper remembers Sneed acting “very crazy” in the pad, even hiding under a table once.</li> <li>• Sneed approached Cooper and told him he wanted Cooper to help him. He stated that he was charged with the murder of the motel owner of the Best Budget Inn (“BBI”). Cooper was familiar with it and had been there, but did not know the owner.</li> <li>• Cooper says Sneed wanted him to tell the police these things: <ol style="list-style-type: none"> <li>1. That he had seen Sneed and Glossip together at the BBI before the murder had taken place and overheard them talking about wanting to kill the motel owner;</li> <li>2. That he heard Glossip say that he wanted Sneed to kill the motel owner and that they would split the money; and</li> </ol> </li> </ul>

Witness	Approximate Time of Communication	Document	Witness Account of What Justin Sneed Stated
			<p>3. That he heard Glossip say that he was supposed to help Sneed move the body after the murder.</p> <ul style="list-style-type: none"> <li>• Cooper states that none of these things were true and he did not tell them to the police.</li> <li>• Sneed did not tell Cooper that Glossip was actually involved in the murder. Sneed told Cooper that he was afraid the state would give him the death penalty and that he needed Cooper's help to "lay it all on Rich[,]" making it clear that he wanted Cooper to lie for him.</li> <li>• Cooper overheard Sneed asking others to do this for him too; Cooper cannot recall the names of these other inmates.</li> <li>• Cooper was later transferred to pod C where he heard someone say Glossip's name. He did not know Glossip, but approached him and told him what Sneed wanted him to do. Cooper said he would not lie for Sneed.</li> </ul>
Fred McFadden (inmate at the Dick Connors Minimum Security Unit)	~May 1997	May 8, 1997 Letter from Fred McFadden	<ul style="list-style-type: none"> <li>• McFadden heard Sneed "bragging" with a "lack of remorse" and said that he and a man named Sean Thompson were both so disgusted about what they heard Sneed say that they got up from the table in Pod 8A. McFadden and Thompson talked openly about Sneed's comments.</li> <li>• McFadden said the experience still haunts him; Sneed's eyes were void of expression and he felt he was "looking at the Devil himself."</li> </ul>
Joseph Tapley (Justin Sneed's cellmate at Oklahoma County Jail)	Sometime between August 24, 1997 – November 20, 1997, based on Tapley's records and the date Sneed signed his Bible.	September 21, 2015 Affidavit of Joseph Tapley	<ul style="list-style-type: none"> <li>• Tapley was placed in the OK County Jail from the summer of 1997 – October 1997. During this time, Sneed was his cellmate in 6-D-25 (Tapley drew a diagram), where they were locked down most of the time.</li> <li>• He spent a long time talking to Sneed about the Bible, and even has Sneed's signature in his Bible dated Sept. 28, 1997 (photographs are attached to the affidavit).</li> <li>• During this time, Sneed told Tapley very detailed accounts of how he killed Mr. Van Treese on two or three separate occasions. Tapley does not remember the exact words Sneed said, but is sure he did it for the money because he told Tapley the money was in the car.</li> <li>• Sneed recalled that it was hard to kill Mr. Van Treese, saying he hit him repeatedly with a baseball bat. Sneed made it clear that he wanted to kill Mr. Van Treese because he relayed how hard it was to kill him. Sneed said there was a struggle and it was hard to get Mr. Van Treese to die. Sneed said he broke the window of the motel room with the bat.</li> <li>• Sneed said he moved Mr. Van Treese's car to the bank parking lot so he could use it later to come back and take the body away. The money was in the car.</li> <li>• Sneed also stated that he threw something in the trash.</li> </ul>



Witness	Approximate Time of Communication	Document	Witness Account of What Justin Sneed Stated
			<ul style="list-style-type: none"> <li>• Tapley is “sure that Justin Sneed acted alone.” Sneed never gave Tapley any indication that someone else was involved and never mentioned the name Richard Glossip. Tapley would have remembered if he mentioned someone else.</li> <li>• Sneed was very concerned about getting the death penalty; Tapley believes signing for a life sentence was the only thing that mattered to him.</li> <li>• Sneed showed no remorse for the killing. Tapley felt that Sneed was sorry he was caught, but “he did not seem to care that he killed a man.”</li> <li>• Sneed was “tweaking” while in jail, which is twitching due to methamphetamine use.</li> <li>• Tapley and Sneed used methamphetamine together in jail. They traded two bags of coffee for it and snorted it.</li> <li>• Tapley does not believe Sneed has lower cognitive abilities. Sneed never had trouble understanding things or communicating. They spent a lot of time reading the Bible.</li> <li>• Tapley did not want his name in the press or involved in the case.</li> <li>• From everything Sneed told Tapley, Tapley states that he “killed this man alone[,]” and if he had been involved with anyone else, he would have said so. He told Tapley everything about the crime but never that anyone else was involved.</li> </ul>
P.M. <sup>1</sup> (incarcerated at Oklahoma County Jail)	Sometime during time at Oklahoma County Jail ~ 1997/1998	February 16, 2016 Affidavit of P.M.	<ul style="list-style-type: none"> <li>• Sneed spoke to P.M. about the murder while in jail. Sneed was “very clear that he killed Mr. Van Treese in his case. He always told me that he did it. Sneed described beating the man, and he also said he strangled him.” P.M. learned his name was Mr. Van Treese.</li> <li>• Sneed told him Mr. Van Treese owned the motel, lived out of town, but stayed at the motel when he came to Oklahoma City.</li> <li>• Sneed said that he had a girlfriend at the time of the murder. Sneed also said Mr. Van Treese was the “sugar daddy” of Sneed’s girlfriend. Sneed said Mr. Van Treese gave his girlfriend money for breast implants and would give her lots of cash (\$500-\$1000) regularly.</li> <li>• Sneed learned from his girlfriend that Mr. Van Treese would have a large amount of cash on him the day he was killed (he thought \$20-30k). He and his girlfriend thought Mr. Van Treese was rich.</li> <li>• Sneed said he and his girlfriend made a plan to rob Mr. Van Treese; his girlfriend set it up. The plan was for the girlfriend to get Mr. Van Treese to meet her in one of the motel rooms and Sneed would either be there waiting or come in.</li> <li>• Sneed said they did not intend to kill him, only rob him, but Mr. Van Treese fought back or disrupted the plan. Sneed said his girlfriend was in the room when the murder took</li> </ul>

<sup>1</sup> This individual requested anonymity.

Witness	Approximate Time of Communication	Document	Witness Account of What Justin Sneed Stated
			<p>place. Sneed then got the money from the car but did not get all the money he thought was there.</p> <ul style="list-style-type: none"> <li>• Sneed sometimes commented that he was angry that they did not get all the money they thought they would.</li> <li>• Sneed had two major concerns while in jail with P.M.: (1) that he would not get the death penalty; and (2) that his girlfriend would not get charged.</li> <li>• Sneed said she kept in contact and sent money; he tried to keep her name off records so she would not get in trouble too.</li> <li>• Sneed was “very afraid of the death penalty.”</li> <li>• Sneed was on lithium at the time; when he asked P.M. what he should do, P.M. suggested maybe pleading insanity.</li> <li>• Sneed sometimes faked taking the medicine and the staff caught onto his scheme.</li> <li>• During all that time in 1997-1998, Sneed never mentioned Glossip’s name; Sneed never said he was hired by anyone to rob or kill Mr. Van Treese for money; Sneed’s story only ever involved the girlfriend and stayed the same – it was a robbery gone messy.</li> </ul>
<p>Roger Lee Ramsey  (incarcerated at Oklahoma County Jail)</p>	<p>Sometime in Oklahoma County Jail ~ Sept. 1996 to May 1997</p>	<p>June 11, 2016 Affidavit of Roger Lee Ramsey  <i>The Killing of Richard Glossip, Episode 2 Investigation Discovery 2017</i></p>	<ul style="list-style-type: none"> <li>• Ramsey and Sneed were on the same floor and shared a cell at some point. They were in an area where medical patients were cared for; Ramsey does not remember why Sneed was there but thought he may have been there because he was taking medications for seizures or mental health problems.</li> <li>• Ramsey could tell Sneed was “pretty strung out” while at the jail. Sneed told Ramsey he used meth as well, including intravenously.</li> <li>• Sneed started talking about the crime within “two or three hours of him coming in.”</li> <li>• Sneed told Ramsey that he was the one who killed that man at the motel. He said it was a robbery that went wrong and he ended up stabbing and beating the man to death. He beat him with a ball bat. Sneed said the man he killed did not want to give his money up.</li> <li>• When talking about the murder, Sneed said “we” to imply there was another person involved and in the room. He did not say who it was or whether it was a man or woman.</li> <li>• Sneed said one of the two was a maintenance man at the motel; that is how he knew Mr. Van Treese carried money.</li> <li>• Sneed made it clear that he killed Mr. Van Treese. He said he and the other person he did it with were supposed to lure Mr. Van Treese into the room and rob him. Sneed said they never intended to kill him, just take the money, but it went badly.</li> <li>• At one point, Sneed mentions a woman was involved. Ramsey did not know if she was in the room. She was Sneed’s girlfriend, wife, or maybe a “dope whore.”</li> <li>• The role of the other person was “supposedly a girl’s job...to get him lured off into the room.”</li> </ul>

Witness	Approximate Time of Communication	Document	Witness Account of What Justin Sneed Stated
			<ul style="list-style-type: none"> <li>• Sneed never mentioned Glossip paying him or hiring him to commit the crime. Sneed did mention the name Richard in the context of saying that was the person he pointed the finger to in this crime. Sneed said he was mad at Glossip so he was blaming him for the crime. Ramsey cannot recall why, other than that it was a “get-even” kind of thing.</li> <li>• Sneed’s story changed two or three times over the time Ramsey knew him. There were different placements of people and their involvement. Ramsey noted he was talking to Sneed as Sneed was coming off drugs and he attributes this to why the story kept changing. Ramsey believed that if you kill someone while on dope, your first thought would be to find out a way to justify what you had done. Ramsey also thinks that people on drugs make up details that stay in the later versions.</li> <li>• Ramsey said the parts that never varied were that Sneed and the other person lured Mr. Van Treese into the room, that they wanted to ambush and rob him, that the robbery went bad, and then Sneed killed him.</li> <li>• Sneed tried to justify the crime and said Mr. Van Treese should not have fought back.</li> <li>• Sneed showed no remorse and was nonchalant.</li> <li>• It was not a big deal to Sneed that the man was killed; he really thought it was okay; Ramsey believed “his thought process was maybe not like yours or mine.” Ramsey also stated, “I don’t think there was any sense of the fact that what he’d done was really wrong. I take it that he probably felt he was justified in doing what he had to do, because their number one goal was money for drugs.”</li> </ul>
Matthew Haire & Lynn Burch (working for Richard Glossip)	January 24, 2000	January 24, 2000 Interview of Justin Sneed by Lynn Burch and Matthew Haire	<ul style="list-style-type: none"> <li>• Haire and Burch visited Sneed in prison and told them they represented Glossip.</li> <li>• Haire asked Sneed to explain why he told police that Mr. Van Treese’s death was an accident; Sneed smiled and said that was just his way of trying to protect himself and he intended to kill Mr. Van Treese that night.</li> <li>• Sneed said Glossip was pestering him for weeks to kill Mr. Van Treese.</li> <li>• Sneed said Glossip came down and woke him up. On the night of the murder, Sneed was coming down from a two-day meth run and was “still kind of out of it.” Sneed claimed that Glossip suggested Sneed use a baseball bat to go kill Mr. Van Treese.</li> <li>• Sneed graphically recounted the murder, noting that he was extremely surprised that Mr. Van Treese did not suffer any head fracture because the blows were directed towards his head with as much force as possible. He said he did not know about the money in Mr. Van Treese’s car until Glossip told him it would be under the front seat.</li> </ul>
Frederick Gray	Sometime after 1997 during imprisonment,	January 18, 2016 Affidavit of Frederick Gray	<ul style="list-style-type: none"> <li>• As a law clerk, Gray discussed the other inmates’ cases with them. Sneed came to him asking for information on <i>Brady</i> violations and double jeopardy. He wanted to use <i>Brady</i></li> </ul>

Witness	Approximate Time of Communication	Document	Witness Account of What Justin Sneed Stated
(inmate/law clerk at Joseph Harp Correctional Center in Lexington, Oklahoma)	likely around 2005 or 2008	April 28, 2022 Letter from Frederick Gray	<p>evidence to get a lesser punishment and also wanted to see if he could be recharged. He also asked if he could withdraw his plea.</p> <ul style="list-style-type: none"> <li>• Sneed spoke to him in depth about the case and “bragged about his crime as if he didn’t care for human life.” Sneed said he beat his boss to death with a bat and robbed him of the cash his boss had flashed him and Glossip.</li> <li>• Sneed stated that he and his “fall partner[,]” Glossip (though he may not have given Gray the name of his fall partner or Mr. Van Treese at the time), were paid by their boss. Sneed saw all the money the boss had and devised a plan to rob his boss. He said he had a drug problem and that is why he wanted to rob him.</li> <li>• Sneed said he tried to talk Glossip into helping him, but Glossip went home to his family. When Glossip would not help him “roll” the boss, he did it himself.</li> <li>• Later, Sneed came back to rob his boss on his own account. Things got out of hand and Sneed killed Mr. Van Treese. Sneed got high. He wanted to cover it up, but he needed help. Sneed called Glossip to ask him to dispose of the body and clean it up, but Glossip told him “I’m in bed with my family” and hung up on him. Sneed got caught and said Glossip masterminded it.</li> <li>• Gray asked Sneed if he acted alone and he affirmed.</li> <li>• Gray asked him, “How do you have a fall partner and where is he?” Sneed replied, “Since he wouldn’t help me in my need, I’ll see if I can get some revenge on him and I testified for a L-WOP [life imprisonment without the possibility of parole] against him; he got death.”</li> <li>• Sneed said, “The killing thing about it is, I told them he hired me to kill our boss which was a lie.”</li> <li>• Sneed stated, “If I had any kind of attorneys they would have found only my traces; they would have argued that he had an alibi, and my drug addiction single life gave me the motive and opportunity; and my fall partner couldn’t afford to pay me to kill someone.”</li> <li>• Sneed said, “To be completely honest, I didn’t want to kill my victim, but he put up a fight for the money, and things got out of hand.”</li> <li>• Gray felt like Sneed was actually angry with the person he lied about to get death row.</li> </ul>
Michael Scott (incarcerated with Sneed at Joseph Harp Correctional Facility)	~2006-2007	September 20, 2015 Affidavit of Michael Scott	<ul style="list-style-type: none"> <li>• From 2006-2007, Scott was incarcerated at Joseph Harp, across from Sneed’s cell.</li> <li>• On more than one occasion, Scott heard Sneed talk about the murder case that he was in prison for and about Glossip. Scott clearly heard Sneed say “in his statements and testimony, he set Richard Glossip up, and that Richard Glossip didn’t do anything.”</li> <li>• Scott stated that among the inmates, it was common knowledge that Sneed “lied and sold Richard Glossip up the river.”</li> </ul>

Witness	Approximate Time of Communication	Document	Witness Account of What Justin Sneed Stated
			<ul style="list-style-type: none"> <li>• Scott gave a specific example that, within his first month or so at Joseph Harp, he learned Sneed “snitched on a guy who didn’t do anything.” Scott specifically remembers Sneed on the top run with a couple of other inmates, fixing food, and laughing with them “about setting Richard Glossip up for a crime Richard didn’t do. It was almost like Justin was bragging about what he had done to...Richard Glossip. Justin was happy and proud of himself for selling Richard Glossip out.”</li> <li>• Scott heard Sneed talking about the deal he made and what he did to Glossip.</li> </ul>
O’Ryan Justine Sneed	~2014	<p>October 24, 2014 Email from Justin Sneed with Letter Attachment</p> <p>August 26, 2015 Interview of Justine Sneed by Quinn O’Brien</p>	<ul style="list-style-type: none"> <li>• According to our copy of an email purportedly from Justine Sneed, Sneed’s daughter, to Glossip’s counsel,<sup>2</sup> Justine Sneed drafted or assisted in drafting a letter before Glossip’s clemency hearing that says Sneed talked to her about recanting his statements but he was afraid due to fear of being charged with the death penalty. He may have told her that he said what he had to say to the police to stay in his daughter’s life.</li> <li>• When later interviewed, Justine said she grew up not knowing why her father had a life sentence and still does not know all the details. Sneed once explained when she was 19 that the only way Glossip could avoid execution was if Sneed recanted. Sneed told his daughter that recanting would get him in trouble. Sneed had no intention to recant.</li> <li>• Justine most recently contradicted this, saying Sneed made clear to her that her recantation would be a lie and he has been telling the truth the whole time.</li> </ul>

<sup>2</sup> Email from justinesneed@gmail.com to mark@henricksenlaw.com re: Clemency Letter (Oct. 24, 2014). This email was forwarded to David Weiss from Mark Henricksen on April 22, 2022.

## **APPENDIX 7**

## Inconsistent Interpretation by Police of Glossip v. Other Individuals

### I. The State Viewed Glossip's Statements with Great Suspicion but Ignored Other Witnesses' Glaring Inconsistencies.

*"The fact that Glossip had made several conflicting statements to investigators during his first interview, lead us to believe he was a principle in this homicide investigation."<sup>1</sup>*

During the investigation into the murder of Barry Van Treese, there appeared to have been a noticeable focus on statements made by Richard Glossip, with the investigators often questioning and investigating those statements. At the same time, the investigators appeared to have done little-to-no investigation into the veracity of statements made by others. This is most apparent in the way the investigators approached inconsistent statements made by Glossip, versus inconsistent statements made by others.

Detective Bemo appears to have zeroed in on Glossip early because of his inconsistent statements. Most notably, Detective Bemo notes in his report:<sup>2</sup>

*The fact that Glossip had made several conflicting statements to investigators during his first interview, lead us to believe he was a inciple in this homicide investigation. Further, investigators had been*

However, Glossip is hardly the only one that has made inconsistent statements. Examples of other witnesses giving inconsistent statements and not receiving the same negative interpretation by police are enumerated below.

#### a. William Bender

When Detective Bemo interviewed William Bender, Mr. Bender told Bemo that he believed that Glossip was going to be fired by Mr. Van Treese.<sup>3</sup> Mr. Bender told Detective Bemo that Mr. Van Treese was going to give him a week to come up with the missing money, which Detective Bemo understood to mean that Glossip would stay employed for at least another week. Detective Bemo attempted to clarify this understanding, but in the end, he wrote in his January 8 report, "I never was quite clear on what Bender was trying to tell me."

*"Rich was going to be told he had a week to get his act together!" I said to Bender this statement indicated to me that Barry was going to allow Rich to stay in the motel. Bender said no. Bender believes it was only the amount of time Rich had to get the money. But I asked, I thought Barry was suppose to collect the money that night? Bender said right. Bender said we are talking about money that Rich has stolen from Barry. I never was quite clear on what Bender was trying to tell me. I can only think that if Rich did not have the money, Barry was going to give Rich a week to get the money together. This part of Bender's statement was not clear to me. I did ask Bender if it was his impression Barry was driving to Lorton that same morning? Bender said it was.*

Mr. Bender is an important witness who lays the groundwork for the State's motive by providing testimony showing that: (1) Mr. Van Treese confronted Glossip about the supposed embezzlement and other issues, and (2) Glossip knew he was going to be fired. No other witness provides those two key pieces of evidence in the case. Yet, during

<sup>1</sup> March 4, 1997 Police Report of B. Bemo.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

the interview, Detective Bemo is unclear what Mr. Bender is telling him. And does not at all try to follow up or view it negatively. Detective Bemo simply failed to investigate this lack of clarity, and wrote in his report that this statements simply “was not clear to me.” When Glossip makes a statement that is unclear or contradictory, the detectives automatically interpreted this to mean he was involved in the murder and viewed him as suspect. The inconsistent interpretation by detectives shows their outcome determinative and prematurely-formed mindset that only Glossip was involved.

b. Donna Van Treese

On the day that the police found Mr. Van Treese’s body, they spoke numerous times with Ms. Van Treese. Ms. Van Treese spoke to Officer Wheat, and told police that Mr. Van Treese left his Lawton, Oklahoma, home on Monday morning:<sup>4</sup>

MISSING AND IF SHE HAD KEYS TO VICTIM'S CAR. IT WAS LEARNED SHE HAD NO KEYS. MRS. VANTRESSE ADVISED THAT VICTIM LEFT LAWTON ON MONDAY MORNING, WAS TO COME TO OKC, TO BEST BUDGET INN, THEN GO ON TO TULSA. VICTIM APPARENTLY LEFT TULSA AROUND 1230, LEAVING A MESSAGE WITH THAT MOTEL (BELIEVED TO BE VICTIM'S ALSO) THAT HE WOULD BE HOME, IN LAWTON, IN ABOUT 5 1/2 HRS.

However, at the second trial, Mrs. Van Treese testified that Mr. Van Treese left their home around 3:30 p.m.:<sup>5</sup>

6	Q.	Okay. All right. So what day then did he leave for
7		this motel trip?
8	A.	January the 6th, 1997, approximately 3:30 in the
9		afternoon and that was on a Monday.

The State does not make any attempt to clarify the inconsistency in the two statements from Mrs. Van Treese concerning the whereabouts of Mr. Van Treese. Whether Mr. Van Treese left Monday morning or Monday afternoon may be an innocent inconsistency, or it may fundamentally alter the timeline of the events and the victim’s whereabouts leading up to his murder. However, Mrs. Van Treese’s two inconsistent statements with two different times were not investigated or even followed up on at trial.

c. Jackie Williams

When Mrs. Williams was interviewed on January 8, she told the police that Justin Sneed told her to clean only the upstairs rooms, which was highly unusual:<sup>6</sup>

<sup>4</sup> January 7, 1997 Police Report of J. Wheat.

<sup>5</sup> Trial 2 Testimony of D. Van Treese, Vol. 4 at p. 79:6-9

<sup>6</sup> January 8, 1997 Police Report of B. Weaver.



19. WILLIAMS TOLD ME IT WAS HER USUAL PROCEDURE IS TO GO BY JUSTIN'S ROOM TO WAKE HIM UP AROUND 10:30 OR 11:00 AM EACH MORNING. \*ON TUESDAY MORNING, HOWEVER, MS. WILLIAMS SAID SHE CAME INTO CONTACT WITH JUSTIN AROUND 9:00 AM JUST OUTSIDE THE MOTEL OFFICE. MS. WILLIAMS SAID SHE IMMEDIATELY NOTICED THAT JUSTIN'S RIGHT EYE WAS BRUISED, AND THAT THERE WERE TWO SCRATCHES BELOW HIS RIGHT EYE AS IF SOMEONE HAD SCRATCHED JUSTIN WITH THEIR FINGERNAILS.

WHEN SHE SAW JUSTIN THAT TUESDAY MORNING, JACQUELYN SAID HE MADE A POINT OF TELLING HER TO CLEAN THE UPSTAIRS ROOMS ONLY, THAT HE WOULD CLEAN THE DOWNSTAIRS ROOMS. WHEN I ASKED, JACQUELYN TOLD ME JUSTIN HAD NEVER DONE THAT BEFORE.

However, during the trial, Ms. Williams testified that it was Glossip who told her not to clean the downstairs rooms, and that she had not in fact seen Justin Sneed that morning:<sup>7</sup>

4 Q. Okay. On January 7th, the day that Barry was found,  
5 did you come to work as usual around 8, 8:30, something like  
6 that?  
7 A. Yes, ma'am.  
8 Q. And you're upstairs. Do you come down the stairs?  
9 A. Yes, ma'am.  
10 Q. And where is the first place you would have gone?  
11 A. Straight down the stairs to the office.  
12 Q. And when you came down the stairs to the office, did  
13 you come in contact with anyone?  
14 A. Yes, I did.  
15 Q. And do you remember who that was?  
16 A. Richard.  
17 Q. Okay. And did you see Justin Sneed at that time?  
18 A. No, ma'am.  
19 Q. And when you saw Richard that morning, did he say  
20 anything to you?  
21 A. Yes, ma'am, he had told me to do the upstairs only, not  
22 the downstairs.

<sup>7</sup> Trial 2 Testimony of J. Williams, Vol. 4 at p. 122:4-22

On cross-examination, the defense did point out this discrepancy, and Ms. Williams explained that she was in shock that day. However, the State offered no further explanation, and it appears that no investigation was done to test the veracity of Ms. Williams' statement. Yet, the importance of her testimony cannot be understated. Mrs. Williams testified Glossip directed her away from room 102 on the morning after the murder.

d. Justin Sneed

During the January 14 interview of Sneed, Sneed first claimed that he had nothing to do with the murder:

BY MR. BEMO: Okay, **are you trying to tell me that you didn't kill him?** (pg. 20)

BY MR. SNEED: **Yes, sir** (pg. 20).

After additional questioning, Sneed then admits that he was the one that struck and killed Mr. Van Treese:

BY MR. SNEED: He (Barry) was in bed asleep, **I just meant to knock him out** (pg. 28).

BY MR. SNEED: **Barry never said anything**; he just jumped out of bed (p. 29). *(In contrast, see statements by witness John Prittie above)*

BY MR. SNEED: I hit him with a bat I found in the rooms I was cleaning (pg. 30).

BY MR. SNEED: I only hit him 2 or 3 times, **I figured I would just knock him out** (pg. 31).

The Sneed interview takes a significant turn when, he first denies having anything to do with the murder, then, after additional questioning, admits that he was the one who struck Mr. Van Treese with a baseball bat. This is an astonishing point of the interview, where Sneed had presented two vastly different versions of the events, yet, investigators did nothing to investigate it. Indeed, it appears as if this is what the investigators were looking for. After Sneed admits to having struck Mr. Van Treese, the investigators accept this as truth, and do not verify the accuracy of this statement, which contradicts Sneed's statement made just moments earlier.

**II. The State Highly Focused on Richard Glossip's Cash Accounting, Without Scrutinizing or Examining the Cash Accounting of Other Witnesses that Called for Similar Skepticism.**

In a similar manner, the State's treatment of Glossip's inability to precisely account for his cash was treated with skepticism and immediate blame, whereas other witness' confusing monetary accounts or statements about Mr. Van Treese's money were not treated with any particular scrutiny or concern.

During the investigation, the police's laser focus on Glossip led them to treat testimonial and physical evidence inconsistently. For example, Cliff Everhart told police investigating the missing person report that he was a "business partner" of Mr. Van Treese and that he knew Mr. Van Treese was carrying approximately \$2,500 in cash

on him from the business.<sup>8</sup> However, investigators did not follow up as to how Everhart knew this. Everhart's knowledge was not viewed as suspicious, whereas the State focused on how Glossip would have known Mr. Van Treese carried cash. This became the primary motive for the murder. Similarly, Billye Hooper informed Detective Bemo that Mr. Van Treese left the motel earlier with several thousand dollars, but was not questioned by investigators how she knew this.<sup>9</sup>

Regarding the actual cash itself, Detective William Cook counted the monetary denominations of the cash on Glossip's person, but did not total the money that Mr. Van Treese had in the trunk of his car.<sup>10</sup> The money in the trunk also was not photocopied. This sum that Mr. Van Treese had in his car was abnormally large, according to Ms. Van Treese,<sup>11</sup> yet very few questions were asked about whether this abnormal amount of cash was related to the murder, possible suspects, or anyone else who knew he had abnormally large amounts of cash in his car.

Further, while the State allowed Ms. Van Treese to testify about a \$100,000 balloon note and commitments of undefined value that Mr. Van Treese was paying with revenue from the motel without further inquiry about the exact amounts that he needed to pay,<sup>12</sup> Glossip's inability to account for \$1,200 from more than 20 years ago has been a consistent reason to deny him clemency or a fair trial.

The State also heard allegations from D-Anna Wood that Billye Hooper was stealing money from the Best Budget Inn,<sup>13</sup> but the prosecution neither investigated nor pursued them. In Trial 2, the prosecution brushed past the allegations, and accepted her answer without skepticism, whereas it heavily scrutinized allegations involving Glossip:<sup>14</sup>

2	Q. Ma'am, D-Anna Wood has suggested that you took some
3	money from Barry Van Treese's motel that way. Did you ever
4	steal money from the Best Budget Inn?
5	A. No, I never, never stole money from the Best Budget
6	Inn. If I had have needed money bad enough to have to steal
7	it, I believe I could have gone to Barry and asked for it.

Importantly, in Richard Glossip's clemency hearing, the State again focused on Glossip's cash, stating:

Glossip had \$1700 cash on him, 1200 of which cannot be accounted for *through lawful means*, through legitimate means, considering the sale of the furniture

<sup>8</sup> Supplementary Missing Person Report for Barry Van Treese (Jan. 1, 1997).

<sup>9</sup> January 8, 1997 Police Report of B. Bemo.

<sup>10</sup> Stipulation of Melissa Keith, *Oklahoma v. Glossip*, Case No. CF-97-244 (2004).

<sup>11</sup> Trial 2 Testimony of D. Van Treese, Vol. 5 at pp. 15:23-16:3.

<sup>12</sup> *Id.* at 16:4-16:13.

<sup>13</sup> Jim Gainey Interview of D-Anna Wood (Jan. 30, 1997).

<sup>14</sup> Trial 2 Testimony of B. Hooper, Vol. 7 at p. 50:2-50:7.

and the TV and the paycheck and what was spent. This all came out of the trial. And I think it was fairly undisputed.

So if we're talking about the quality of evidence, I think you have to consider Judge Chappell's observation that in his mind, this was pretty strong proof corroborating Sneed's testimony that they split the \$4,000.<sup>15</sup>

The State's focus on Glossip's inability to lawfully account for the \$1,200 in cash shows that the State and investigation originally shifted the burden onto Glossip, requiring him to recall and prove where certain cash came from, instead of meeting their own burden to prove that this unstained amount was the same cash that came from Van Treese's car. This approach is entirely inconsistent with the State's treatment of other evidence about the money earlier.

**III. The State Viewed Justin Sneed as Completely Reliant on Richard Glossip to the Point of Running All of His Errands and Relying on Him for Meals, but Failed to Consider that Sneed had Similar Relationships with Other Best Budget Inn Employees and Residents.**

Relatedly, the State portrayed Sneed's role as an errand-runner and someone dependent on the help of others to make him into Glossip's puppet, willing to do anything, since he was entirely dependent on Glossip for housing and food. However, the State entirely ignored Sneed's dependence on others around him, and ignored the fact that these other people may have offered him other opportunities. Further, the investigation never considered that Sneed's dependence on many other parties could have led to a different suspect who told Sneed to commit the murder. Instead, investigators focused their tunnel vision on Glossip.

In the second trial, the State opened with a narrative about Sneed being Glossip's puppet:<sup>16</sup>

20                   So there's Justin, 19 years old at the  
21 Best Budget Inn in Oklahoma City hanging out with Richard  
22 Glossip.  
23                   Now, Justin Sneed got for free a \$23 a night room.  
24 And that's it. Now, he did some work at the motel. He did  
25 Richard Glossip's work at the motel. He worked part-time

<sup>15</sup> Glossip Clemency Hearing Transcript, Part 2, 8 (emphasis added).

<sup>16</sup> Trial 2, State's Opening, Vol. 3 at pp. 208:20-209:18.

1 | housekeeper, part-time maintenance man, part-time go-for,  
2 | whatever it is that Richard Glossip wanted Justin Sneed to  
3 | do he would do, including some illegal activity. And he  
4 | didn't get paid. He had no money for food.

5 |           You'll hear the evidence from Justin Sneed and  
6 | from others who lived there and worked around the motel that  
7 | Justin Sneed ate only when Richard Glossip would be so kind  
8 | as to give him some food. And it wasn't every day. But it  
9 | was easy. There were girls and drugs and other things that  
10 | Justin Sneed had, and he had a 23-dollar a night room, so he  
11 | stayed.

12 |           And Richard Glossip, he was nice to him and he fed  
13 | him every once in a while and he had a video game and he let  
14 | him play that and he talked to him. He talked to him  
15 | probably more, Justin Sneed will tell you, than anybody else  
16 | ever paid attention to him in his life. So Justin Sneed was  
17 | pretty content just to be there and to do whatever it is  
18 | that Richard Glossip wanted him to do.

The prosecutor ended the trial with the same story:<sup>17</sup>

24 |           I want to talk quickly about Justin Sneed. What  
25 | we have asked you to see him in the light of how  
1 | Richard Glossip saw him and that's a pawn, a puppet. And I  
2 | think his demeanor on the stand tells you that that's what  
3 | he is. Do you think the State of Oklahoma is asking

The State, though, failed to address the inconsistencies between its skepticism of Sneed's dependence on Glossip versus Sneed's dependence on others in his life. For example, Sneed's sole sustenance did not come from Glossip. He also depended on others for food, such as Kayla Pursley. Pursley, who resided in the Best Budget Inn, told our investigator that she often purchased meals for Sneed in exchange for him picking it up for her and her

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<sup>17</sup> Trial 2, State's Closing, Vol. 17 at pp. 100:24-101:3.

family.<sup>18</sup> She also testified about Sneed's demeanor, directly stating that she often had to tell him what to do and asserting that he helped her with her children. Examples of this testimony include:<sup>19 20 21</sup>

2 | Q. How did -- tell me the circumstances under which you  
3 | and your family interacted with Justin Sneed.

4 | A. I had broken my foot and was on crutches so he did a  
5 | lot of my leg work. I mean like going and getting things to  
6 | either for the boys and myself and then he also played with  
7 | my boys.

23 | skateboard and that was his life. He rode his skateboard  
24 | back and forth. He didn't make a lot of decisions. You had  
25 | to tell him sometimes what to do.

14 | Q. You said that he had to be told what to do. What are  
15 | some things that you had to tell him to do?

16 | A. Well, like if he was going to get something to eat, I  
17 | would have to ask him had he ate. And then he'd say, no.  
18 | And I'd say, Well, then you need to make sure you get  
19 | something to eat.

20 | Because he didn't eat unless you -- you know, unless  
21 | you kind of told him to eat, or maybe he was imposing. But  
22 | you had to tell him to do these things, you know. Other

Further, Billye Hooper told police that she would send Sneed on errands daily and that he helped her move in exchange for money:<sup>22</sup>

Billye was asked about Justin, the maintenance man. She said that he was always polite and well mannered. She said that normally every morning she would send him to MacDonalds to pick up some breakfast. She said that Justin worked only for his room and did not get any pay. She said that last Saturday she took Justin home to help her and her sister move. She said that they gave him some spending money for helping them.

<sup>18</sup> May 9, 2022 Reed Smith Interview of K. Pursley.

<sup>19</sup> Trial 2 Testimony of K. Pursley, Vol. 9 at p. 17:2-7.

<sup>20</sup> *Id.* at 17:24-25.

<sup>21</sup> *Id.* at 18:14-22.

<sup>22</sup> January 7, 1997 Police Report of W. Cook.

Hooper's actions were not viewed as turning Sneed into a puppet. Although she may not have seemed the most likely suspect, the investigation did not even question whether her similar "control" over Sneed's actions and life would have allowed for the same kind of plotting that Glossip allegedly used to contrive a plan to murder Mr. Van Treese. Such blind spots by the State show that its immediate focus on Glossip alone allowed it to conduct the investigation and trials with tunnel vision that prevented an objective, thorough examination of the evidence. Additionally, the above accounts of Sneed's general dependence on others was not placed in context with the volumes of evidence tending to counter that his narrative of being easily manipulated was not always accurate. For more on this, see Section XVIII.A. (Justin Sneed Counter Evidence)