

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL
CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA**

Anthony W. Broom
Petitioner/Defendant

Trial Court Case #81-1860A1-XX

EXHIBITS A-Q

Anthony W. Broom
D.C. # 0-081443 - Dorm J1-105L
Tomoka Correctional Institution
3950 Tiger Bay Road
Daytona Beach, Florida 32124

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**EXHIBIT FOR
STATEMENT OF FACTS**

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STATEMENT OF CASE

I. On November 30, 1981, trial commenced pursuant to a grand jury indictment for first degree premeditated murder. On December 3, 1981, the petit jury returned a verdict for murder in the second degree. On December 7, 1981, a Motion for New Trial was filed. On December 8, 1981, a Motion for Judgment of Acquittal was filed. Said motions were denied on December 23, 1981, at sentencing where a life sentence with a 3 year mandatory was imposed.

II. Notice of Appeal was filed December 30, 1981, and the court affirmed (without opinion) September 1982. Certiorari was denied. Petitioner filed numerous motions in state and federal courts, mostly to no avail except Exhibit Q Judge Luten's Order Granting Habeas Corpus. Reversed on procedures only and never addressed the merits.

III. However, due to lack of storage space and prison shakedowns, Petitioner's legal work has been destroyed and/or lost.

IV. Respectfully, the history of this case is extensive and in support of the serious charge Petitioner submits a chronological showing with facts and state documents Exhibit A-P showing structural error through State Action that violates state and federal constitutional due process of law. The facts raised in this statement of facts are a few of the due process violations perpetrated. The record will reveal an abundance of violations perpetrated through State action.

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PRELIMINARY STATEMENT

Assistant State Attorney (ASA) Pickard is no stranger to the courts as a prosecutor who possesses the propensity to knowingly commit misconduct at all costs.

The Florida Supreme Court in its case of Johnson v. state, 44 So.3d 51, 73 (Fla. 2010), reveals the on-going corruption of Pickard. The Court held in pertinent part

“... we must vacate the death sentence under Giglio v. United States, 405 U.S. 150, 92 S. Ct. 763, 31 L.3d. 104 (1972). ...this result is dictated by the misconduct of the original prosecutor in this case, Hardy Pickard. His misconduct tainted the State’s case at every stage of the proceeding. ... This is not a case of overzealous advocacy, but rather a case of deliberately misleading at both the trial and this court” *Id.*, 44 So.3d at 73.

Broom’s trial for premeditated murder was held in the same court as Johnson, at the same time, and with the same prosecutor Hardy Pickard. Ironically, Broom is, and will, demonstrate similar constitutional violations in his case as in Johnson, *supra*.

Hardy Pickard’s *modus operandi* has also been penned by federal judges in the case of Kelley v. Singletary, 222 F. Supp. 2d. 1357, 1363 (S.D. Fla. 2002), holding:

“This case presents many incidences of prosecutorial misconduct. Mr. Pickard has a habit of failing to turn over exculpatory evidence and impeachment evidence” *Id.* at 1363. [FN3] goes on to state: “In another capital murder case, Circuit Judge Barbara Fleischer, sitting by designation by the Florida Supreme Court as a temporary judge of the Tenth Circuit, ordered a new trial because Assistant State Attorney Hardy Pickard withheld impeachment materials from the defense.” State of Florida v. Melendez, No.: CF: CF-84-1016AS-XX (Tenth Judicial Circuit of Florida, slip op. filed December 5, 2001); Kelly, *Id.*, n.3.

STATEMENT OF FACTS

THE SCENE

NO EVIDENCE OF A CRIME BY AN OTHER:

1. On the morning of June 24, 1981, at about 4:00 a.m., Petitioner Broom had the Winter Haven Police Department (WHPD) summoned to his motel room #539, at the Holiday Inn on Highway 17 South, in Winter Haven, Florida Exhibit A - Trial Transcripts (TT) P47 L7-25 and P48 L1-2¹;

2. Charlotte Swenson Martz, Broom's friend, was lying diagonally on the bed nude from the waist up, bleeding from the left side of her head Exhibit K - Detective Woodard's Deposition P6 L 3-9;

3. Broom had the ambulance and police summoned Exhibit A - TT P47 L24-25, P48 L1-2, P52 L6-18, and Exhibit K- Det. Woodard's Deposition P7 L23-25, P8 L 1-3. As he attempted first aid P6 L12-20;

4. The First Responders – Offices Dennis, Thomas and Quinn, were the first WHPD officers to arrive on the scene Exhibit A - TT P28 L5-25 and P29 L1-15.

AN UNCOMPROMISED SCENE:

5. From the following facts, evidence, and the **uncompromised scene** Officer Quinn surmised suicide Exhibit A-TT P60 L24-25 and P61 L1:

a) No evidence showed anyone to be in that motel room with victim at the time of the gunshot Exhibit A-TT P255 L3-9;

b) Broom was ordered twice to come out with his hands up. In order to get these First Responders to feel safe so they would come in and help. Broom picked the gun up from the floor, near the head of the bed, by its barrel and tossed

¹ The number for the pages referred to in the Trial Transcripts (TT) will be in the upper right hand corner.

it onto the couch behind him 4 to 5 feet Exhibit A- TT P31 L16-25, P32 L1-4 and P58 L1-9;

c) The First Responders saw Broom pick the gun up from the floor and toss it onto the couch Exhibit A -TT P58 L1-9; supra and P125 L1-11; The gun was on the floor near the head of the bed, where it would have fallen from Charlotte's left hand as the gun discharged causing the fatal injury;

d) As the officers entered, Officer Thomas retrieved the gun Exhibit A - TT P32 L17-18 and P80 L5-6. Then he put it in his belt at his back P126 L13-14 and P127 L2-4 while another officer checked and found a slight pulse P36 L1-8;

e) Numerous people handled the gun with their bare hands and no protection was used to preserve Charlotte's fingerprints on the gun Exhibit A - TT P77 L15-18, P80 L16-25 and P81 L1-25. This caused exculpatory evidence of the deceased's fingerprints to be destroyed as Broom continued his attempt at first-aid;

f) The gun was photographed on the couch Exhibit A - TT P127 L2-13, it was put back on the couch for evidence photos to be taken where the police picked it up P132 L15-25, P133 L1-13, P133 L22-25 and P134 L1-2. But, no photos were taken of the gun on the floor, near the head of the bed, where the First Responders saw Broom pick the gun up and tossed it onto the couch Exhibit A - TT P58 L1-9 supra, and P125 L1-11, supra;

g) Stippling/gunshot residue/soot could be seen with the naked eye Exhibit A - TT P159 L24-25 and P160 L1-10 on the backside of the deceased's index and middle fingers of her left hand P155 L5-21. As seen by Officer Stantion, who had basic and advanced schooling with the FBI P153 L2-9;

h) The same type of stippling/gunshot residue/tattooing was seen around the entrance wound Exhibit A - TT P97 L14-25 and P98 L1-21 which shows a close to near contact wound Exhibit C - Photo of Entrance Wound. As this photo shows, the deceased died from a single gunshot injury. Stippling is seen

in a continuing uninterrupted complete circle on the left side of her head. This shows nothing could have been between the end of the gun barrel and the deceased's head. Hence, the stippling is in one continuous circle around the entrance wound;

i) No stippling/gunshot residue/soot/tattooing was seen on Broom's hands or clothing Exhibit A - TT P283 L10-16, the state tests later proved Broom had not fired a gun that night;

j) Broom did not flee the scene. He had help summoned as he attempted to administer first-aid. He kept Charlotte alive until the First Responders arrived and they found a slight pulse Exhibit A - TT P36 L1-8;

k) The police and ambulance arrived and the First Responders saw Broom attempting first-aid. He picked the gun up from the floor, near the head of the bed and tossed it over his right shoulder onto the couch 4 to 5 feet behind him, so the police would feel safe to enter and help Exhibit A - TT P31 L18-25 and P32 L1-13;

l) Charlotte's head was near the head of the bed Exhibit A - TT P32 L23-25 and P33 L1-23 as such no one could have been behind her to fire a fatal gunshot. Unless they were in the adjacent motel room shooting through the wall. There was no bullet hole in the wall;

n) There was no sign of a struggle Exhibit A - TT P36 L16-20. The bed covers were rolled down; the deceased had no broken fingernails and no evidence of traumatic injury to the body other than the entrance and exit wounds P111 L12-25, P117 L12-25 and P118 L1;

o) Upon the EMT's arrival they took over Broom's attempt at first-aid, then one of the First Responders ask Broom what happened. Broom stated "he had no idea what happened" Exhibit A - TT P42 L4-9. The EMT's then moved Charlotte further down on the bed (about 18 to 24 inches) so they could administer

their first-aid and triage. Also photographs in the June 24 or 25 1981 Winter Haven News Chief Newspaper, shows two large blood spots. One spot near the head of the bed and the other about 18 to 24 inches further down shows the spots with the bed cover removed. These photos show that the deceased's gunshot to the head was when her head was near the head of the bed. Not at the lower blood spot where the EMTs were doing their first aid and photos were taken;

p) The deceased's death was from a single gunshot injury to the left side of her head Exhibit D -Autopsy Report;

q) Since Broom's return from Vietnam he slept with a loaded cocked single action revolver under his pillow Exhibit L - Mary Prochaska Deposition P30 L21-24. The revolver had a light trigger pull of less than 3 ½ pounds Exhibit A - TT P283 L17-25 and could be dangerous in someone's hand not familiar with guns;

r) From the above facts, evidence and state documents establishes Officer Quinn's ² surmised suicide from his investigation and findings of the **uncompromised scene** Exhibit A -TT P60 L23-25 and P61 L1, supra. The facts and evidence show the manner of death to be from some type of a self-inflicted single gunshot, such as suicide or a bizarre accident.

s) The EMTS announced that the injured woman had died and Broom made several phone calls from his motel room phone. First he called his father and stated "Daddy my girlfriend is dead. She was shot in the head" Exhibit A - TT P42 L21-25 and P43 L1. He then called an attorney and said about the same thing P43 L2-13;

t) The evidence or lack of evidence in this case does not establish probable cause that a crime was committed by another. The State's Expert

² Officer Quinn had witnessed everything even before the EMTS arrived and moved Charlotte down on the bed so they could do their first -aid. His view was before the gun had been moved from the floor near the head of the bed where it had fallen from the self- inflicted injury

Pathologist “could not establish whether the death was a suicide, homicide, or some type of a bizarre accident” Exhibit A - TT P121 L7-21;

6. The above establishes the surmised suicide. That is, the facts and evidence in this cause is unrefuted. The State’s own facts, evidence, and documents do not show or establish another person in the room, Exhibit A-P255 L3-9, supra, no probable cause, no *prima facie* case showing the criminal agency of another and no gunshot residue on Broom P283 L14-16.

7. One of the police officers asked Broom to wait outside. But Broom kept going in and out of the motel room Exhibit K-Woodard Deposition P4 L19-22 asking how his friend was doing. Therefore, one of the officers had Broom to have a seat in the backseat of one of the patrol cars.

8. Broom alleges and shows, through the attached State documents that Assistant State Attorney (ASA), Hard O. Pickard, by shouting guilty over his whisper of innocence, knowingly and deliberately used the Probable Cause Affidavit/Arrest Report, that he knew to contain false facts submitted by Detective Sandra F. Woodard, with the WHPD, to gain probable cause, a “true bill” and an overall conviction that violates substantive due process rights under the state and federal constitutions. The above shows some type of a self-inflicted fatal gunshot injury. Not homicide.

STILL AT THE SCENE

VINDICTIVE DETECTIVE:

9. Approximately ½ hour **after** the First Responders arrived to an **uncompromised scene** the Lead Detective Sandra F. Woodard, arrived to a **now very compromised scene** on 6-24-81 at 4:30-4:35 a.m. Det. Woodard unequivocally states that “**she has a prior personal dislike for Tony Broom**” at

Exhibit K- Woodward's Deposition P7 L19-22. Then states "**she actually didn't know what went on in that room**" P22 L8-10. Also she states that "**she thought about it could have been a suicide or it could have been an accident, but she didn't believe it was**" P30 L10-13 Further stating "**that she had her mind made up that it was a homicide**" P30 L14-16. Then at trial she states "**There is no evidence that Tony Broom was in that room at the time Charlotte was shot**" Exhibit A - TT P255 L3-9. Det. Woodard should have recused herself so there could have been a fair and impartial investigation.

10. Det. Woodard had been brief by the First Responders Exhibit A -TT P44 L10-11 and also informed of Officer Quinn's surmised suicide P60 L23-25 and P61 L1. Nevertheless, Det. Woodard ignored all of the facts ; evidence and had it investigated as a homicide P66 L6-9. Then the other lead Detective Lt. Henry (who was the overseer) states it is now being investigated as a homicide P83 L8-9 "well once we are told we have a homicide, we rule as homicide"...

11. Exhibit B - Death Investigator Report gives the Date/time viewed by investigator at 4:34 a.m. However, Det. Woodard did not arrive on the scene until 4:30-4:35 a.m., Exhibit K - Woodward's Deposition P4 L5-7. But Det. Woodard and Lt. Henry submitted Exhibit B - Death Investigator Report on 6-24-81 at 5:45 a.m., states the investigator viewed at 4:34 a.m., which was 1 minute of her arrival at most and Lt. Henry had not yet arrived. Furthermore, the Death Investigator Report is contrary to the First Responder Officer Quinn's surmised suicide. For the First Responders were the only personal to view the **uncompromised scene**.

DETECTIVE WOODARD'S FIRST FALSE AND MISLEADING REPORT:

12. Officer Quinn, with the First Responder surmised suicide Exhibit B - TT P60 L23-25 and P61 L1, supra. However, because of Det. Woodard's prior personal dislike for Broom Exhibit K - Woodward's Deposition P7 L19-22, supra,

and her vindictiveness she sent a false and misleading Death Investigator Report to the State's Expert Pathologist in order to influence him into finding a homicide. But, she has no facts, evidence or witnesses, only her own conjecture and speculation. This entire investigation starts with a bias, false and staged facts and documents she stated and presented to show probable cause, the criminal agency of another and Broom as the suspect. Without facts or evidence she places Broom in that motel room with Charlotte at or near the time of the tragedy. That is, within minutes of Det. Woodard's arrival she submitted Exhibit B the Death Investigation Report which states in part:

“According to investigator the victim and suspect were in Rm#539 just prior to shooting”

13. This Death Investigator Report falsely placed Broom in that motel room with Charlotte just prior to the gunshot. This is to insinuate that Broom did the shooting. However, this is a false and misleading material fact. For there were no patrolmen, detective(s) or investigator(s) or anyone else on the scene, until Broom had help summoned. No one was at the scene at the time of the tragedy to say Broom or anyone was in Rm. # 539 with Ms. Martz just prior to the shooting. Not even Det. Woodard and there was no hearsay for her to allege her false accusing document.

14. The Death Investigator Report was not with the Discovery and Broom did not receive it for over three (3) decades. Broom only received copies **after** his thwarted attempts when Ms. Diane Heisler, Exhibit O, Advocate 4 Wrongful Convicted, P.O. Box 542, Bluffton, S.C. 29910, had personally made a trip to the WHPD in Winter Haven, Florida, from South Carolina. She also had requested numerous times in writing but it wasn't until she personally went to WHPD and requested Broom's file **before** she received copies. Then Ms. Heisler promptly mailed copies to Broom.

a) The State's invited error deliberately circumvented the due process procedure admitting false evidence to charge a crime;

b) Due process is violated when the State is permitted to continue to benefit from the fruit of its own deception for over 38 years violating the state and federal constitutions;

c) The Death Investigator Report unlawfully removed the question of law for the court. Denied due process state and federal by falsely placing Broom in the room with an alleged victim at the time of the shooting with no facts, evidence or witness(es). This unlawfully made it a question of facts for the jury;

d) State and federal constitutions due process was violated by State Action that removed the question of law. No criminal agency of another had been prima facially shown, no probable cause shown and nothing showed Broom in that room at the time of the tragedy;

e) Due process was further violated by the fraudulent and unsubstantiated Death Investigator Report that was presented to the State's Expert Pathologist Dr. Young. As fact for aiding his findings, along with other tainted evidence. I.e., staged photographs of the gun and body **after** they had been moved as if that was where they were found;

f) Dr. Young's autopsy shows the cause or manner of death to be suicide or some type of bizarre accident. However with the Death Investigator Report he had to include "or homicide;"

g) Due process was also violated by the way the Death Investigator Report was drafted. It made it appear Broom was inside the motel room at the time Charlotte lost her life. This is of course entirely contrary to the First Responding Officer Quinn's surmised suicide. Contrary to what Broom stated, "he did not know what happened" and most importantly for this document, contrary to what

the untainted material evidence establishes. That it was some type of self-inflicted fatal injury;

h) Absent that falsified and misleading material Death Investigator Report by Det. Woodard, putting the victim and suspect in Rm. # 539 just prior to shooting. There is no probable cause, no prima facie case for the criminal agency of another for Dr. Young's to have included "or homicide" in his Medical Examiner's Report. There was no evidence at the autopsy or in the motel room of a struggle or any other evidence showing anyone in the room with the deceased at the time of death. Nothing shows anything other than some type of a self-inflicted fatal gunshot wound. Only Det. Woodard's speculation and conjecture.

FIRST OFFICERS ON THE SCENE

15. Officer Quinn with the WHPD was one of the First Responders to arrive on the scene. He testified at trial that it appeared to be suicide Exhibit A- TT P60 L23-25 and P61 L1, supra. The First Responders witnessed everything prior to the arrival of the EMTs and prior to the EMTs reposting Charlotte in order to perform their CPR and/or triage.

16. The First Responder saw the scene before the gun had been picked up from the floor and tossed onto the couch in order for them to feel safe to enter and help Exhibit A -TT P31 L23-25, P32 L1-18.

17. Officer Dennis and the other First Responders arrived at 4:13 a.m., Exhibit A -TT P124 L8-16. The EMTs arrived at 4:15 a.m., P125 L19, and took over CPR of Charlotte

DET WOODARD HAD OR ALLOWED STAGED PHOTOS:

18. By the time Det. Woodard arrived the scene had become very **compromised** I.e., the gun had been handled and moved by numerous people Exhibit A- TT P80 L16-25. Charlotte's fingerprints on the gun were destroyed and stippling on her trigger and middle fingers of her left hand were wiped away when Officer Stanton, did a Neutron Activation Test using a cotton swab with a liquid on it Exhibit A - TT P155 through P160. And Charlotte had been moved down by the EMTs so they could do their CPR.

a) Det. Woodard's arrival was not until 4:30-4:35 a.m., or approximately a half hour after the gun shot. By then things had been moved around with evidence lost, destroyed and/or **compromised**.

b) Det. Woodard witnessed the scene that is, she witnessed a **scene that was compromised** and in disarray. Nothing was as it was when Officer Quinn with the First Responders surmised suicide.

c) Det. Woodard had evidence photographs taken **contrary to the uncompromised scene**. I.e., the deceased's body was photographed not near the **head of the bed at the corner**. But, after she was moved about 18 to 24 inches down on the bed, which made it appear someone could have stood behind her and fired the fatal shot.

OFFICER STANTON ARRIVES:

19. Officer Stanton arrived on the scene about an hour **after** the First Responders and EMTs which was 5:00 a.m., June 24, 1981, Exhibits A- TT P131 L16-25. It was "five o'clock in the morning when he was directed by Det. Woodard and Lt. Henry to start photographing the scene," P132 L8-14;

a) Officer Stanton “observed the body of a young white female lying on the bed in the motel room Exhibit A-TT P132 L13-14 and he photographed the scene as he found it at 5:00 a.m.,” P133 L22-24;

b) Officer Stanton had no knowledge of how the scene appeared at 4:00 a.m.,” Exhibit A-TT P132 L25 and P134 L1-2, which was at the uncompromised scene.

DET WOODARD’S FALSE STATEMENT ABOUT PHOTOS:

20. Det. Woodard stated “the pictures show Charlotte’s body as the officer’s first saw it when they arrived” Exhibit K- Woodard’s Deposition P39 L5-7;

a) The above statement is false and misleading material facts. I.e., the First Responders arrived at 4:13 a.m. Exhibit A -TT P28 L5-17 and they observed Charlotte lying on the bed. P32 L20-25 and P33 L1-3;

b) Officer Thomas stated at, Exhibit A -TT P126 L1-3 that Charlotte’s head was close to the door at the **head of the bed, the corner**, the feet going across the bed diagonally towards the foot.” This was **before** the EMTs moved Charlotte about 18 to 24 inches down on the bed so they could administrator their first-aid;

c) However, with the photographs taken **after** Charlotte had been moved down on the bed, insinuates that was where she received the fatal bullet, which would have allowed it to look like someone was behind her and fired the fatal gunshot. But, this was tainted and misleading. If the pictures had been taken when the First Responders arrived at 4:13 a.m., “Charlotte’s **head was at the head of the bed, at the corner**”, and no one other than Charlotte could have fired that fatal shot. Because no one could have been behind her. With Charlotte’s **head at the head of the bed at the corner**, and the nightstand bolted to the wall beside the

head of the bed, there was no room for anyone and only a self-inflicted gunshot was possible.

d) Further proof that Charlotte's **head was at the head of the bed at the corner** near the nightstand can be seen in the photographs in the June 24 or 25, 1981, Winter Haven News Chief Newspaper. These pictures show **two (2) large blood spots on the bed**. One of the **blood spots is at the head of the bed at the corner** where Charlotte received the fatal gunshot. **The other large bloodspot is seen about 18 to 24 inches further down** where the EMTs administered their first-aid and Det. Woodard's photographs were taken.

e) The trouble with these staged and misleading pictures that show Charlotte moved down from where she fired the fatal gunshot is seen when Det. Woodard was called as a witness by the Plaintiff and testified Exhibit G-Det. Woodard's testimony for plaintiff P18 L22-25 and P19 L1-5 as follows:

22 **Q. Okay. Could you tell from looking at her or looking at the scene where she apparently was when she was shot?**

25 **A. It appeared that she had been on the bed.**

1. **Q. Where she was laying when you found her?**

2. **A. Yes.**

3. **Q Is where she was. Appears that she was in that location?**

5. **A. Right.**

f) This testimony was solicited from Det. Woodard before the alleged First Appearance Hearing which was to establish probable cause and/or the prima facie case for the criminal agency of another and made it appear that Broom was in that room with Charlotte at the time of the gunshot. Without Det. Woodard's testimony Broom should not have been held;

g) The pictures that were taken at five (5) o'clock in the morning was **after** Charlotte had been moved down on the bed. **She was not photographed at the head of the bed at the corner** where the First Responders saw her when they arrived at 4:15 am. These pictures and Det. Woodard's testimony above removes the conclusive proof of a self inflicted gunshot. I.e., with her **head at the head of the bed at the corner** with the nightstand bolted to the wall no one would have had room to be behind Charlotte and fired a fatal gunshot. **Unless** they were in the adjacent room shooting through the wall. There was no bullet hole in the wall;

h) Det. Woodard did not arrive on the scene for almost a half (1/2) hour **after** the First Responders and EMTs. The staged photographs of Charlotte moved down on the bed as if that was where she receive the fatal gunshot and Det. Woodard's testimony above, removed the proof that only Charlotte could have fired that fatal gunshot that ended her life. Without her being moved, no one could have been behind her, clearly showing a self-inflicted fatal gunshot.

DET WOODARD STAGED PHOTOS OF THE GUN'S POSITION

21. Det. Woodard had the gun photographed on the sofa as if that was where it was when the First Responders arrived Exhibit A-TTP127 L2-13 to the **uncompromised scene**. However, when the First Responder arrived they first saw the gun on the floor near the head of the bed Exhibit A -TT P58 L1-9. But P234 L9-14 and P235 L3-4 tries to make it appear as if the gun was tossed there after a homicide.

a) Det. Woodard's tainted photograph removed evidence of a self inflicted gunshot which only left homicide when the gun was shown 4 to 5 feet from Charlotte's head and left hand;

b) The gun's original location where the First Responders saw it upon their arrival was on the floor near the head of the bed Exhibit A- TT P32 L2-15.

The First Responders witnessed Broom pick the gun up from the floor and toss it onto the sofa P31 L16-25, P32 L1-13 and P58 L1-9. This was so they would feel safe to enter and help.

c) Nevertheless, Det. Woodard had Officer Thomas, who had retrieved the gun Exhibit A - TT P32 L17-18 and P80 L5-6 to place it back on the sofa where he picked it up P127 L5-12 **after** Broom had tossed it there. Det. Woodard had the gun photographed on the sofa and not on the floor as the First Responders saw it as stated P58 L1-9 and P125 L1-11 upon their arrival at 4:13 am. The pictures that were taken at 5:00 am shows the guy on the couch and not on the floor.

d) The evidence appears to show that Charlotte was trying to remove the hard object from under the pillow that she felt as she lay back on the pillow. Unfortunately in doing so it discharged, with the bullet striking her in the left side of her head, in some type of bizarre accident that took her life. Not a homicide.

OTHER WHPD OFFICERS DESTROYED EVIDENCE

22. Numerous WHPD Officers handled the gun without protecting Charlotte's finger prints on it Exhibit A-TT P80-P82. The stippling on her trigger and middle fingers of her left hand was destroyed. This was caused when the officers put the gun in a plastic bag Exhibit A-TT P82 L14-20 and P163 L1-14, and then in the trunk of the parole car after bring it out of a cool A/C room. The June-July heat in Florida would cause the gun to sweat removing any and all fingerprints. It was Det. Woodard that packaged the gun to be sent to the lab Exhibit A-TT P251 L14-16

23. Officer Stanton noticed a mark on Charlotte's left hand. "It looked like particles that could have been from residue of a gunshot" Exhibit A - TT P155 L5-

21. Officer Stanton had also been train by the FBI to do gasses residue tests P152 L18-25 and P153 L1-9.

a) Officer Stanton did a swab test at the scene using a liquid on a cotton swab to obtain gunshot residue from Charlotte's index and middle fingers of her left hand. Exhibit A - TT P155 through P160;

b) This gunshot residue test would have been better done **after** a Scotch Tape Test. The Scotch Tape Test would have removed the stippling that were saw on the hand so it could have been tested. Then the Newton activation test for gasses residue could have been done for the Newton activation test would not have been affected. But by using a cotton swab with liquid removed all or most of the stippling, making the Scotch Tape Test useless. More exculpatory evidence destroyed by shoddy police procedures that keep Broom from being exonerated;

c) The stippling that Officer Stanton saw on the fingers of Charlotte left hand that couldn't just be wiped away was tattooing from the burning gun powder that burned holes in the fingers and around the entrance wound. Exhibit A - TT P160 L7-20;³

d) However, it was six (6) hours later at the autopsy that Officer Stanton determined that he was now going to try to secure what appeared to be gun powder residue/stippling Exhibit A - TT P158 L21-23 to send to the lab. Even though six (6) hours before at the scene P158 L15-18 he had destroyed all or most of the stippling when he used a liquid on a cotton swab to do the Newton activation test;

e) The procedures used destroyed exculpatory gunshot residue/stippling on Charlotte's left hand leaving only the tattooing where the burning powder burned holes in her fingers and around the entrance wound.

³ Note 3: Dr. Young s stated "if the gun powdered residue was removed [as it was in this case when a cotton swab with a liquid that was used to gather evidence for GSR tests] the burn holes would still show and be seen as tattooing on the skin" Exhibit A - TT P97 L12-25 and P98 L1-17.

EVIDENCE NOT PRESENTED:

24. No photographs were taken for evidence of the guns original location upon arrival of the First Responders at 4:13 am June 24, 1981 to the scene. The First Responders stated "they saw the gun on the floor near the head of the bed Exhibit A - TT P58 L1-9 and P125 L1-11, where it would have fallen from Charlotte's left hand as it accidentally discharged.

a) No instructions were given by Det. Woodard to put the gun back on the floor near the head of the bed, as the First Responders saw it upon their arrival, before evidence pictures were taken. As Det. Woodard had instructed Officer Thomas to put the gun back on the sofa where he had picked it up or as close as he could Exhibit A - P127 L2-13, so evidence pictures could be taken.

b) Det. Woodard did not take photos where the First Responder saw the gun in its original position on the floor near the head of the bed when they first arrived to the **uncompromised scene**.

BROOM'S ARREST:

25. Broom had been detained in the back seat of a patrol car not allowed to leave for more than one and a half (1 ½) hours.

a) Det. Woodard had Broom transferred from the motel parking lot to the WHPD under arrest for murder. This was with no evidence that Broom was in that motel room at the time of the tragedy Exhibit A - TT P255 L3-9, no prima facie case for the criminal agency of another and no probable cause.

b) Det. Woodard ignored Officer Quinn's surmised suicide and had Broom taken to the WHPD under arrest for first-degree murder of Charlotte Martz stating "because he needed talking to" as Det. Woodard stated.

26. Broom was detained in a holding cell with a telephone. Broom called Charlotte's family and told her sister that he did not know what happened. He stated that he really cared for Charlotte and that he was sorry. He had tried first-aid but to no avail.

27. Det. Woodard made a rush-to-judgment denying Broom due process by manipulating evidence. Det. Woodard ignored Office Quinn's surmised suicide for "she has a prior personal dislike for Tony Broom," P7 L19-22 supra. Then she had him sent to the WHPD under arrest for murder.

a) This was a true rush-to-judgment with Det. Woodard ignored Officer Quinn's surmised suicide, supra, with no facts, evidence, or witness(es) and a **now compromised scene** she makes it a homicide charging Broom as the suspect. Much of the evidence was trampled and lost the lab didn't have a lot to work with by the time Det. Woodard arrived. She now had to fabricate, destroy and/or fail to pressure any exculpatory evidence, favorable to the accused.

b) Det. Woodard started her investigation by failing to investigate Charlotte's death as suicide or an accident Exhibit A - TT P83 L5-10. "Once we are told we have a homicide we rule as homicide." Det. Woodard ignored all the above and stated it was a homicide Exhibit A - TT P66 L6-11, stating while "the deceased was still there"; it is now being investigated as a homicide.

DET. WOODARD LEFT THE SCENE AND WENT TO WHPD:

28. Det. Woodard left the scene to go to the WHPD so she could integrate Broom. In doing so she told Broom "if you don't want to talk to us we will have to charge you because there are no witnesses" Exhibit K - Woodard's Deposition P13 L18-23. However, she had already told Broom that he was under arrest for murder, so he told Det. Woodard that she could talk to his attorney. She already had her mind made up that it was a homicide Exhibit K - P30 L14-16.

29. Det. Woodard then had Broom transferred from the WHPD to the Polk County Jail around 9 am June 24, 1981. Broom was booked on the charge of first-degree premeditated murder around 10:00 am, June 24, 1981

DET. WOODARD LEAVES WHPD:

30. Det. Woodard left the WHPD after her interrogation of Broom. Still she had no evidence showing a crime by another. Before she returned to the scene she had a phone conversation with the State's Expert Pathologist, Doctor Luther Archeball Young III M.D. Exhibit K - Woodard's Deposition⁴;

a) Dr. Young's had completed his autopsy by 10:00 a.m. Exhibit A - TT P116 L1-2 June 24, 1981, or six (6) hours after the time of death P115 L22-25;

b) Det. Woodard had sent a Death Investigator Report with the deceased's body to the morgue as this Report was to influence Dr. Young's finding;

DET. WOODARD STAGED FACTS AND EVIDENCE FOR DR. YOUNGS

31. Det. Woodard's false and misleading material facts in that Death Investigator Report was to influence Dr. Young s to find a homicide as the Report makes it appear that Broom was in the room with Charlotte at the time of the gun shot:

⁴ Det. Woodard's conversation with the Medical Examiner Exhibit K - Woodard's Deposition P22 L11-13 in this case, was on June 24, 1981 at about 10:00 a.m. And Dr. Young's stated that he did not have an opinion as to what went on in that room P22 L14-16.

Dr. Young's informed Det. Woodard that there was stippling/tattooing on the backside of the index and middle finger of the deceased's left hand Exhibit A - TT P111 L12-25 and stippling encircle the entrance wound at the left side of her head P97 L14-17 as seen in the autopsy photo shows stippling/tattooing in a complete round circle around the entrance wound with no void places where the fingers would have been. But because of the Death Investigator Report that was submitted with the deceased's body Dr. Young's had to includes or homicide.

a) The body moved down on the bed as Det. Woodard's staged pictures only shows the deceased after she was moved. This allowed enough room for someone to be able to stand behind Charlotte and fire the fatal gunshot;

b) The pictures of the gun on the sofa up to 5 feet away from Charlotte negated everything except homicide of some type;

c) All or most of the gunshot residue/stippling was wiped away from the fingers which excluded exculpatory evidence that Charlotte was holding the gun when it discharged;

d) There is nothing to indicate that Dr. Youngs was informed that the First Responder, Officer Quinn surmised suicide. So as the above was presented to Dr. Youngs' as being the truth he still could not find a homicide, but he had to include a homicide Exhibit A - TT P121 L7-18. His finding was that he could not say with any medical certainty that it was suicide, homicide or some type of bizarre accident Exhibit A - TT P121 L14-21. Dr. Youngs' manner of death was undetermined.

e) Without the false, tainted and misleading evidence and facts, i.e. the fabricated Death Investigator Report, the tainted pictures of the body moved down on the bed, the tainted pictures of the gun on the couch and the stippling wiped away from Charlotte's finger, denied Broom a fair finding as to the cause or manner of death;

SCIENTIFIC INFERENCE:

32. After the autopsy, Pathologist Dr. Youngs came up with two (2) theories as to how the stippling/tattooing/GSP was on the index and middle fingers of the deceased's left hand Exhibit A - TT P113 L2-10.

A. The First Theory – in an attempt to defend herself Ms. Martz placed her left hand between the barrel of the gun and her head Exhibit A - TT P112 L24-25 and P113 L1-6.

B. The second theory – that Ms. Martz herself fired the revolver as the stippling/tattooing found on the trigger and middle fingers would have resulted from cylinder flair when the bullet discharged Exhibit A - TT P111 L15-17 and P113 L6-10;

a) As shown by the State's own Pathologist, no rational trier of fact could have found probable cause or evidence of the criminal agency of another. Dr. Young's two theories show that the deceased, not the Petitioner, fired the fatal gunshot. This is established by the stippling/tattooing on the backside of her left index and middle fingers.

b) Young's other theory was that "the hand had been interposed between the barrel of the gun and skin. Exhibit A - TT P112, L24-25 and P113 L1-6. However, this is impossible (her hand between the barrel of the gun and her head) as her fingers would have blocked the stippling leaving stippling on her hand and not her head as the undisputed evidence established a complete round circle;

c) Evidence established there was round uninterrupted tattooing/stippling around the head wound Exhibit A - TT P97, L7-25. With the first theory eliminated by Dr. Young's own findings, this leaves only his second theory of gun powder discharged around the cylinder of the revolver onto the hand.

d) Since the individual holding the revolver discharged it, residue of this type was found on the back of the hand. Exhibit A - TT P113, L6-13. This evidence shows that Dr. Young's theory of the deceased holding the gun as it discharged is the only valid theory.

33. The State's facts, evidence and testimony shows it's not a case of murder. I.e., the First Responders testified that Charlotte received the fatal gunshot with **her head near the head of the bed at the corner**. And with the night stand bolted to the wall no one could have been behind her to have fired the fatal gunshot, which only leaves some type of a self-inflicted gunshot. Not a homicide.

WITNESSES STATEMENTS

34. After questioning Broom at the WHPD, Det. Woodard returned to the scene at 10:05 a.m. June 24, 1981 and took statements from the witnesses. Exhibit E - Singh's statements which are as follows:

Barbara Singh:

We were sleeping in bed, I must have been in a deep sleep or something because I never heard no voices or nothing, but all at once I heard this loud noise. To me it sounded like a commode lid just slam down real hard ...

Kumar Singh:

Nope, Nope. We were sleeping. We heard nothing until the loud noise what woke us up, nothing at all ...

PROBABLE CAUSE AFFIDAVIT/ARREST REPORT

THE POISONOUS TREE:

35. As stated above Det. Woodard took statements from the Singhs the only witnesses, who were next door to Broom's motel room. Det. Woodard had already arrested Broom for first-degree murder, now she swore to the Probable Cause Affidavit/Arrest Report. By front loads the evidence in this case Det. Woodard swore to material facts from the witnesses that **they did not state**. Exhibit F- the Probable Cause Affidavit/Arrest Report "**the Poisonous Tree**" which states:

THE ABOVE NAMED DEFENDANT AND VICTIM...BECAME INVOLVED IN AN ARGUMENT (SIC) ... AND A FEW MINUTES LATER A "LOUD" BANG WAS HEARD BY BARBARA SINGH AND HER HUSBAND KUMAR SINGH

36. To couch the Probable Cause Affidavit/Arrest Report in the language used is clearly to manipulate the facts in order to establish probable cause for a charge of first-degree murder.

37. Nevertheless, this Probable Cause Affidavit/Arrest Report became the linchpin throughout the egregious due process proceedings. Denying justice at every step without a valid probable cause or even a prima facie case for the criminal agency of another. Det. Woodard's facts were derived from reasonable trustworthy witnesses. But, because of the affiants nefariously couching the language in her sworn Probable Cause Affidavit/Arrest Report, manipulated the Singh's facts, in order for her to show probable cause, for her unlawful arrest and detention. The Singhs' statements establish that Det. Woodard's sworn Probable Cause Affidavit/Arrest Report contains material facts that **the Singhs did not state.**

FIRST APPEARANCE

PRESENCE OF DEFENDANT:

38. Rule 3.180(a) (1) mandates the presence of the Defendant at the First Appearance Hearing. However, Broom was held in a holding cell just outside the courtroom for the entire hearing. As such he was unable to object to the false and misleading material facts in the fabricated Probable Cause Affidavit/Arrest Report. Det. Woodard later admitted it contained false facts **after** it was used to arrest

Broom and hold him for a Grand Jury Indictment. Although with said false facts removed there is no probable cause, the Assistant State Attorney (ASA) Hardy O. Pickard presented Det. Woodard's testimony to substantiate the Probable Cause Affidavit/Arrest Report. This hoodwinked the magistrate into finding probable cause for Broom's illegal arrest and unlawful detention and being held for a Grand Jury Indictment Hearing.

39. Det. Woodard was not at the scene when the tragedy occurred and was not a witness. The Probable Cause Affidavit/Arrest Report was based on the Singhs' statements allegedly hearing an argument and then a loud "BANG." The Singhs should have been called by the magistrate as witnesses to uphold the Probable Cause Affidavit/Arrest Report sworn to by Det. Woodard. But, the Singhs testimony at the alleged First Appearance Hearing would have exonerated Broom by showing no probable cause exists.

40. The above shows a malicious prosecution establishing a miscarriage of justice through Prosecutorial Misconduct in the groundless speculation of only supposition by Det. Woodard. This allowed the magistrate presiding over the First Appearance Hearing to be hoodwinked by finding probable cause. Without reviewing the Singhs' Statements or by confirming their statements with their oral testimony at the hearing. But, allowed Det. Woodard to substantiate her own sworn Probable Cause Affidavit/Arrest Report, denied due process.

NO HEARING TRANSCRIPTS:

41. It is fundamental error to fail to have a criminal process transcribed by a Court Reporter. Rule 2.070(b), Florida Rules of Judicial Administration, requires that **all criminal proceedings shall** be reported at public expense to provide for meaningful appellate review of convictions. Because... "Facially sufficient claims

on preliminary appeal from an adjudication which cannot be refuted by the record will invariably mandate vacation of the judgment.”

42. The totality of the circumstances provides evidence for serious due process violations which have jeopardized the search for justice in this cause over and over again.

43. The ASA Hardy Pickard had the Probable Cause Affidavit/Arrest Report and the Singhs’ statements. He knew that affidavit contained false and misleading material facts that the **Singhs did not state** or he had a total disregard for the truth. The ASA presented that Probable Cause Affidavit/Arrest Report to the magistrate in order to hoodwink him into finding probable cause for the arrest and to hold Broom for a Grand Jury Indictment Hearing. The ASA knew that affidavit contained false facts before he presented it.

44. By Broom not being allowed at that alleged First Appearance Hearing to object, for he was the only person besides Det. Woodard that knew that Probable Cause Affidavit/Arrest Report contained false and misleading material facts. However, with the false facts removed there is no probable cause and no criminal agency of another. Although Broom’s attorney was at that hearing he had not talked to Broom and he knew nothing about what was or was not stated by anyone. Also there is no record made of this alleged First Appearance Hearing. No record exists.

ORDER FOLLOWING FIRST APPEARANCE HEARING (6/25/81)

45. On 6-25-1981 at 1:15 pm, Judge Dale Durrance issued his order to detain the Petitioner Exhibit J - Order Following (*****) First Appearance Hearing, which his order held

1. X Probable Cause to detain the defendant is based upon _____ sworn complaint _____ affidavit ✓ deposition or testimony under oath, a copy of which is filed with the Clerk of the Court.

46. The Time/Date stamp on this document shows the filing time and date to be June 25, 1981 at 2:20 p.m. This was after the alleged First Appearance Hearing was over at 1:15 p.m. Det. Woodard's *Probable Cause Affidavit/Arrest Report*, also, had not been filed with the Clerk of the Court until 2:20 pm and contained false information contrary to the Singh's actual statements, Exhibit J compared to Exhibit F.

47. Broom was not allowed to be at the alleged First Appearance Hearing is shown by Exhibit H-Motion to Set Bond at #2 stating: "He was held and interrogated on and off until approximately 3:30 p.m., that afternoon missing his First Appearance Hearing." Although, in reality the State held Broom in a holding cell just outside the court room for the entire hearing. There is no record of the First Appearance Hearing and the Probable Cause Affidavit/Arrest Report was not filed with the Clerk of the Court until 1 hours and 5 minutes after the alleged First Appearance Hearing ended. This kept Defense Counsel from objecting and the Time/Date on Exhibit F, supra, shows 81 JUN 25 p.m. 2:20.

48. The alleged First Appearance Hearing was held as seen by Exhibit J - Order Following (*****) First Appearance Hearing which states "The defendant came before me at 1:15 o'clock p.m., on the 25th day of June 1981, for a First Appearance Hearing. Defendant was at Bartow, Florida. He appeared with Richard Barest Attorney at Law."

49. However, there are several inconstancies with the above Exhibit J Order -Following (*****) First Appearance Hearing. First, the defendant did not come before Judge Durrance as the Order states. Broom was held in a holding cell just outside the court room for the entire hearing. Also in the Motion to Set Bond

Exhibit H at #2, it states: “2. He [Broom] was held and interrogated on and off until approximately 3:30 p.m., that afternoon missing his First Appearance Hearing; Second, under Order and Adjudge states that “Probable Cause is based upon deposition or testimony under oath.” Det. Woodard was not a witness. There were only the Singhs that were in the adjacent motel room to Broom. There is no deposition or testimony under oath except Detective Woodard’s sworn Affidavit of Probable Cause for the Arrest Report which the Singhs’ Statements shows it to be null and void; Third, there is no recording/transcripts of this alleged First Appearance Hearing; and Fourth, both Exhibit F and Exhibit J have a Time/Date Stamp of 81 JUN 25 PM 2:20 which show when they were filed with the Clerk of the Court. Or this is 1 hr and 5 min **after** the alleged First Appearance Hearing was held without Broom which is contrary Rule 3.180(a) (1) Fla. R. Crim. P.

MOTION TO SET BOND

DEFENDANT NOT ALLOWED AT HEARING:

50. Broom’s not being allowed to be at the First Appearance is seen in Exhibit H Motion to Set Bond at #2 supra. The First Appearance was over at 1:15 pm June 25, 1981 as seen in Exhibit J Order Following (*****) First Appearance Hearing, infra. Also there is no record of this alleged First Appearance Hearing. Therefore, there is no evidence sufficient to support the magistrate’s finding of probable cause. The magistrate was hoodwinked by the ASA’s presenting false facts that he knew was such.

BOND REDUCTION HEARING

DET. WOODARD ADMITTED SECURING FALSE AFFIDAVIT:

51. Just 2 hours and 20 minutes later at 3:35 pm, June 25, 1981 Exhibit I - TT P30 L1-18 Motion to Reduce Bond (Testimony of Sandy Woodard) was held with Broom present. Defense Attorney who for the first time since Broom's arrest was able to see and talk to him. Counsel informed Broom that he was being detained because of the facts in the Probable Cause Affidavit/Arrest Report. Broom informed counsel that affidavit was a lie and the Detective was lying for there was no argument. So Defense Attorney questioned Det. Woodard about the truth of her sworn Probable Cause Affidavit/Arrest Report and she stated:

1. A. Like I say, I did not write that affidavit
2. Q. Well, ma'am you interviewed those witnesses
3. personally?
4. A. Yes sir.
5. Q. And you know what they told you?
6. A. Yes sir.
7. Q. And you signed this affidavit under oath, which is different than
8. what they told you?
9. A. Yes Sir.
10. Q. Did you think there was something wrong with that?
11. A. I did not re-read it once it was typed, that was
12. my error.
13. Q. You never read the affidavit, you just signed it?
14. A. I did not re-read it.
15. Q. What do you mean, you didn't re-read it?
16. The Court: She already said it was her error.
17. Please move on, Mr. Barest.

18. Mr. Barest: All right, sir.

52. ASA Pickard, Judge Curtis and Defense Counsel all knew that there was no valid probable cause, when Det. Woodard clearly admitted that she swore to the Probable Cause Affidavit/Arrest Report, which contained material false facts that the witnesses had not told her. But, the court stopped Defense Counsel from impeaching Det. Woodard and suppressing the admitted tainted Probable Cause Affidavit/Arrest Report. Which has not been correct to this day. It is still being used as if it is true and correct at every opportunity. Because the State failed to correct what it knew or learned to be false. Also Det. Woodard tried to pass her false and misleading affidavit off as if it was only someone else's typing error.

53. The Prosecutor, ASA Pickard, was present at this and all other hearings. Furthermore, he had the Probable Cause Affidavit/Arrest Report and the Singh's Statements. Therefore, he knew before the alleged First Appear Hearing and before jeopardy attached, that Det. Woodard's sworn Probable Cause Affidavit/Arrest Report, contained false and misleading facts from the Singhs that they did not state.

54. From this hearing it is clear that the ASA could not say it was an oversight. But, Mr. Pickard as Prosecutor did nothing to correct what he knew to be false and misleading. The facts constituting probable cause are not in dispute. Therefore such fact is a question for the court. The question of whether probable cause exists is a jury issue only when material facts are in controversy. Also, this Court has an obligation in the interest of justice to correct a manifest injustice when it can.

55. Furthermore, Mr. Pickard as the Prosecutor, failed to follow Rule 4-3.3(a) Florida Rules Regulating the Florida Bar which states:

A lawyer shall not knowingly.... (4) Officer evidence that the lawyer knows to be false. If a lawyer has

offered material evidence and comes to know if its falsity, the lawyer shall take “reasonable remedial measures.”

56. The above as well as the PRELIMINARY STATEMENT at the beginning of this Statement of facts, unequivocally establishes Mr. Pickard’s Prosecutorial Misconduct by his knowing use of false and misleading material facts, as the only probable cause to obtain the true bill. The tainted drafted indictment will be shown below.

57. Det. Woodard clearly admitted that she swore to the Probable Cause Affidavit/Arrest Report, which contained material facts that the witnesses had not told her in their Statements. However, the court stopped Defense Counsel from impeaching Det. Woodard and suppressing the admitted tainted Probable Cause Affidavit/Arrest Report. The U.S. Supreme Court in 1975 held in pertinent part:

(A prosecutor “shall not institute or cause to be instituted criminal charges when he knows or it is obvious that the charges are not supported by probable cause”).

58. Det. Woodard’s method of establishing this false Probable Cause Affidavit/Arrest Report was outrageous police misconduct denying due process. And it is Prosecutorial Misconduct for a Prosecutor to use false facts that he knows to be false to influence the grand jurors into returning their “true bill”. It is grounds for dismissing an indictment if a Prosecutor knew the evidence was false when he presented it. There must be a valid indictment to try a Defendant for a Capital Offense of First Degree Murder. The Prosecutor knew the material facts he presented to the grand jurors was false when he presented them, causing due process and a structural defect. Also without these material false and misleading facts as shown, there is no valid probable cause, no criminal agency of another and nothing to put Broom in that motel room at the time of the fatal gunshot.

59. Det. Woodard admitted that she did not write (type) that affidavit. She testified, under oath, that she personally interviewed Mr. and Mrs. Singh and knew what they had told her in that interview. Detective Woodard admitted that the sworn to and signed affidavit contained information different than what the Singhs told her. Det. Woodard did not testify to the fact that she did not read the affidavit before signing it. She stated that she did not “**reread**” it. The false statement was on the affidavit at the time Det. Woodard signed it under oath. The Court, rather than have the issue of false information properly addressed, required Defense Counsel to move past the issue. Affiants are responsible for their sworn statement in an affidavit to which they apply their signature.

DRAFTING INDICTMENT

DRAFTING THE FRUIT OF THE POISONOUS TREE:

60. The ASA Hardy Pickard, allowed the tainted and misleading material Probable Cause Affidavit/Arrest Report, that he knew to be such, to go to the State’s Attorney’s Office and be used to draft Exhibit M Indictment (**fruit of the poisonous tree**).

61. The above clearly established that Probable Cause Affidavit/Arrest Report contained false and misleading material facts. With these material facts removed there is no probable cause and no prima facie case for the criminal agency of another.

62. Then on August 21, 1981, the Polk County Grand Jury returned the State’s drafted Indictment with it “true bill” Exhibit M.

INDICTMENT

FRUIT OF THE POISONOUS TREE:

63. Exhibit M - Indictment is “**The Fruit of the Poisonous Tree.**” The indictment is just as tainted as the Probable Cause Affidavit/Arrest Report which was used to influence the grand jury into returning their “true bill”. The Probable Cause Affidavit/Arrest Report is no longer need for the Indictment is now the probable cause. However the ASA never informed the Grand Jury, the Court and the Defense of such. Without a valid indictment being returned on untainted evidence, the court lacked jurisdiction and, because of that lack of jurisdiction, Petitioner/Defendant is being unlawfully detained, kidnapped.

64. The Probable Cause Affidavit/Arrest Report used by the SA Office in drafting the indictment was also used in order to influence the Grand Jury into returning their “true bill”. The ASA knew that affidavit contained material facts/statements that the witnesses did not state and with said false material facts/statements removed there is no valid probable cause to take the cause before a Grand Jury. Therefore, the Prosecutor knowing use of false and misleading facts/statement/evidence to the Grand Jury, the indictment must be dismissed.

65. On August 21, 1981, ASA Hardy Pickard knew the falsity of Detective Woodard’s arrest affidavit, and presumable the compromised photos and false Death Investigation Report was knowingly presented to Broom’s Grand Jury, influencing their determination as to whether probable cause existed for first-degree murder.

66. After the tainted and uncorrected evidence, material to the alleged crime, an indictment charging first-degree murder was filed pursuant to a “true bill” presented by the Grand Jury August 21, 1981 Exhibit M Indictment as probable

cause gave the trial court jurisdiction of this case. This was a substantial due process and a structural defect of the charging document. This denied a fair Grand Jury Hearing and unbiased grand juror's "true bill". The Grand Jury Hearing should be ruled as a nullity. Because of the State Action use of false document(s) known to be such by the ASA and by not informing the grand jurors, influence them into returning their "true bill".

67. On August 27, 1981, the Indictment charging first-degree murder was filed pursuant to the "true bill" presented by the Grand Jury. There are no notes available from the Grand Jury, nor is there available a list of witness who appeared everything was put through a shredder per the ASA, infra.

HEARING NOVEMBER 4, 1981

TAINTED EVIDENCE:

68. Defense Counsel requested a hearing, because he heard tainted evidence was presented to the Grand Jury in order to obtain a "true bill". But the ASA admitted that material evidence such as the Grand Jury notes, etc., were **put through the shredder** after each days' hearing Exhibit N - Hearing November 4, 1981. This destroyed exculpatory evidence.

BROOM 3.850 1986 MOTION

TRUTH OR FALSITY:

69. It was over five (5) years after the Grand Jury Indictment was returned, before the prosecutor let Broom know that he had used the admitted false and misleading Probable Cause Affidavit/Arrest Report to influence the Grand Jury

into returning their “true bill” Exhibit P -Motion to Dismiss Defendant’s Motion for Postconviction Relief – Filed Feb. 7, 1986 states in part:

... First, defendant was not prosecuted based upon Det. Woodard’s affidavit. Defendant was prosecuted based upon an indictment returned August 21, 1981 by Polk County Grand Jury. Once that indictment was returned, Det. Woodard’s probable cause affidavit **ceased** to play any part in the case. The return of the indictment conclusively established probable cause to try the defendant **regardless of the truth or falsity** of allegations in Det. Woodard’s affidavit... (Emphasis added by Petitioner)

70. Not only does ASA Pickard admit that Probable Cause Affidavit/Arrest Report played a part in this case, up to and including the return of the “true bill”. The indictment would normally become probable cause. However, when false evidence that the State knew to be false, when he presented it, taints everything, not only for what it was presented but everything thereafter.

71. Petitioner was kept from knowing the State used this false and misleading Probable Cause Affidavit/Arrest Report because: 1) Broom was not allowed to be at the alleged First Appearance Hearing; 2) ASA Pickard had the responsibility to correct and not use probable cause he knew to be false; 3) The State’s Attorney’s Office drafted its indictment using such tainted evidence behind closed doors; and 4) The secrecy of the evidence the Grand Jury used to return its “true bill”. Broom could not by reasonable due diligence have discovered prior to the denial of his motion for new trial, his appeal to the DCA, certiorari to Florida Supreme Court and even his federal habeas corpus under 28 U.S.C. §2254 being denied, that evidence was subsequently fraudulent and misleading.

72. The State’s own documents clearly prove that the Prosecutor “knowingly use” of fraudulent and misleading evidence to obtain Petitioner’s detention through

the ASA's use of an Indictment obtain on known false evidence constituted a denial of due process of law.

73. Petitioner has shown and established that the State deprived him of his liberty and a fair and impartial hearing, without due process of law, by its failure in the circumstances set forth. There was no fair judicial process by which a conviction was obtained' justice was denied.

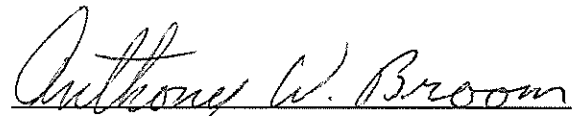
74. Broom respectfully request for the above to be used as an aid in showing his unlawful charge and detention.

Respectfully submitted,


ANTHONY W. BROOM, in propia persona

OATH VERIFICATION
PURSUANT TO Florida Statute 92.525

UNDER THE PENALTIES OF PERJURY I CERTIFY, that I have read the foregoing Statement of Facts and the facts are true and correct as substantiated by the Exhibits enclosed herein. I also hereby certify that I understand English and I have read the foregoing Statement of Facts and understand its contents; and the documents are filed in good faith with potential merit. Dated this 20th day of November 2019.



Anthony W. Broom in propia perdon

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Statement of Facts with Exhibits A through Q was placed in the hands of Tomoka Correctional Institution Officials for the purpose of mailing via First Class U.S. Mail to:

On this _____ day of November 2019.