

STATE OF ILLINOIS     )  
                                  )     SS.  
COUNTY OF COOK     )

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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – CRIMINAL DIVISION**

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PEOPLE OF THE STATE OF ILLINOIS,     )  
    Respondent – Plaintiff,             )  
  )     v.     )  
  )     No. 95CR-15660  
  )     )  
VINCENT THAMES,                         )  
HAROLD RICHARDSON,                     )  
TERRILL SWIFT &                         )  
MICHAEL SAUNDERS                       )  
    Petitioners – Defendants.         )

FILED  
SEP 14 2011  
DOROTHEA BROWN  
CLERK OF CIRCUIT COURT

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**PEOPLE’S MOTION TO DISMISS AMENDED JOINT MOTION FOR RELIEF  
FROM JUDGMENT PURSUANT TO 735 ILCS 5/2-1401**

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Now come the PEOPLE OF THE STATE OF ILLINOIS, by their attorney, ANITA ALVAREZ, State’s Attorney of Cook County, Illinois, and her Assistants, Jeanne A. Bischoff and Mark A. Ertler, and respectfully move this Honorable Court to dismiss the Petition for Relief from Judgment of Conviction filed pursuant to 735 ILCS 5/2-1401. In support of their motion, the People state as follows:

**I. PROCEDURAL HISTORY**

1. Petitioners Thames, Richardson, Swift and Saunders were charged in March 1995 along with Jerry Fincher with the November 1994 first degree murder of Nina Glover. The case was presided over by the Honorable Thomas Sumner. After Fincher’s confession was suppressed the charges against him were dismissed. Richardson and Saunders were convicted after bench trials and subsequently sentenced to

40 years imprisonment each in January 1998. Swift was also convicted after a bench trial and was sentenced to 36 years imprisonment in June 1998. Thames pleaded guilty and was sentenced to 30 years imprisonment on February 10, 1998.

2. Richardson, Swift and Saunders appealed and in each case the convictions were affirmed. Saunders' previous post-conviction filing under section 2-1401 was dismissed in 2008. Thames attempted unsuccessfully to withdraw his guilty plea in 2008, and the denial of his motion was affirmed on appeal.

3. All four petitioners now join in a filing under section 2-1401 wherein they seek to have their convictions vacated and the matter set for a new trial.

## **II. FACTS**

4. Three of the four petitioners were convicted after separate bench trials. The fourth, Thames, pleaded guilty. The facts attributed to each defendant-petitioner at trial or via confession are individually summarized below.

### **A. Terrill Swift**

5. On November 7, 1994, Nina Glover's body was found in a dumpster behind a liquor store at 1400 W. Garfield. She was covered with a white sheet, was undressed except for her socks and appeared badly beaten. Both of her eyes were swollen, she had a large laceration over her right eye and there were bruises on her throat. Exhibit A, *People v. Terrill Swift*, No. 1-98-2624 (1<sup>st</sup> Dist. 1999) Petitioner Swift was brought to the police station four months later and admitted his involvement in the rape and murder of Nina Glover. He gave a 22-page court reported confession and signed each page of the statement. *Id.* According to Swift's statement, Swift admitted being a member of the Blackstone street gang. On November 5, 1995, he was on a street corner

with fellow gang members Harold Richardson, Michael Saunders, and Vincent Thames when Nina Glover crossed the street. Saunders stated that he hated the victim. Thames said that she owed him \$400. *Id.* Saunders stated that he “hated that trick” and that he “will change that trick.” *Id.* Swift explained that “change” meant “kill.” Richardson called Glover over and she went with them to the basement of Thames’s house. *Id.* In the basement, Richardson grabbed the victim and ripped off her shirt. Saunders held her arm while Richardson pushed her to the ground and removed her pants. Richardson, Thames and Swift took turns raping her. After they raped her, Richardson picked her up and Thames struck her with his fists “all over her face and all over her body.” *Id.* Saunders picked up a shovel and struck her in the head two or three times and on the arms and legs. When Glover fell to the floor, Richardson picked her up and choked her with both hands. All of the other rapists watched him choke her until she fell to the ground, shaking and foaming at the mouth. When Glover stopped breathing, Saunders said they had to “get rid of her.” Thames obtained a white sheet from upstairs and Swift went outside to “stand security” which meant he watched for the police. Richardson, Saunders and Thames took the victim’s body through an alley and threw her in a dumpster. When they returned, they said they had to clean up the blood from beating the victim to death and went to the corner store and bought a mop. *Id.* Defendant Swift stayed outside while the co-defendants cleaned the basement area. When they finished cleaning, they took the mop and shovel and threw them into the lagoon. The following morning, defendant Richardson told the co-defendants “the trick still owed him money, but it is over, she out of here.”

6. Terrell Swift went with Detective Paladino to Sherman Park lagoon and showed him where the co-defendants threw the shovel and the mop. Divers recovered the shovel and a broken mop handle. Swift explained that the co-defendants broke off the handle of the mop when they were unable to burn it. A search of Thames' basement resulted in the recovery of swabs of areas where blood was observed and a curtain that appeared to have bloodstains on it.

7. Assistant Chief Medical Examiner Dr. Mitra Kalelkar performed the autopsy on the victim. She observed a number of injuries consistent with the beating detailed by defendants Swift, Saunders, Thames and Richardson. She observed multiple abrasions to the victim's forehead area consistent with being struck by a shovel. The victim also had injuries consistent with being beaten by fists as described by all of the defendants. The injuries to the victim's throat and neck were all consistent with strangulation including a bite to the victim's tongue and bruises and hemorrhages in her eyes. Dr. Kalelkar opined that Nina Glover died from manual strangulation. Finally, Dr. Kalelkar stated that while the victim died from the violent injuries, she would have convulsed and foamed from the mouth. *Id.*

8. Contrary to petitioner Swift's contention that he was convicted based on his uncorroborated twenty two page confession, the appellate court specifically found that "the independent evidence was sufficient to corroborate defendant's confession." *Id.*, at p. 8. The court noted the fact that the victim was undressed with the exception of a pair of socks, the injuries described by Dr. Kalelkar that were consistent with how petitioner described this brutal attack and most important, the recovery of the shovel and the mop handle from Sherman Park lagoon. The court stated: "The many descriptive details in

defendant's confession that match the physical evidence undermine his testimony that he lied to the police after being told to place himself at the scene so he could go home." *Id.*, at 9. Finally, the appellate court held that petitioner Swift waived the issue of the admissibility of his confession for appeal since he never contested the admissibility of his confession in a pre-trial motion, never objected to its admission at trial and never included it in his motion for a new trial. *Id.*

9. Swift's court reported confession detailed how the victim was taken to the basement of co-offender Vincent Thames. Exhibit B, Statement of Terrill Swift. Swift admitted he was in the Blackstone street gang. On November 6, 1994, he was standing on the corner of 54<sup>th</sup> and Bishop. He was with Mo-Mike (Harold Richardson). Thames and Mike Stone (Michael Saunders) came up to them. They were all fellow members of the Blackstone street gang. Swift knew the victim, Nina Glover by her nickname, Pico. When Saunders saw the victim, he commented that he hated the "bitch." Richardson called the victim over and had a conversation with her which Swift did not overhear. They went to Thames' house and waited at the back door while Thames went through the front and opened the back door to the basement for them. (Note: Vincent Thames resided at 5356 S. Bishop at the time of his arrest. Exhibit C, Arrest report of Vincent Thames) Richardson stated that he hated the trick (Nina Glover) and that they would "change that bitch." Swift explained that "change" means to kill. Once in the basement, Richardson grabbed the victim, ripped her shirt off and pushed her to the ground. Saunders grabbed her by the arm. Nina struggled and yelled to let her go. Saunders grabbed her by the arm and Richardson removed her pants. Swift grabbed Nina by her other arm and Thames grabbed her by the ankles because she was fighting. Richardson then "fucked" her. Nina

wasn't completely naked and her pants were down around her ankles and her shirt was ripped. After Richardson engaged in intercourse with Nina, Saunders "fucked" her and Richardson held Nina's arm. Next, Swift "started fucking her." Finally, Thames "started fucking her" with Swift holding Nina's "ankles, around the knees" and Richardson and Saunders held Nina's arms. During the four rapes of Glover, Swift described her as "moaning, like struggling, like she was weak, like just laying there." Exhibit B, page 10. Richardson picked Nina up by her shoulder and started hitting her with his fists in her face and body. Thames also struck her. Saunders took a shovel from Thames' basement and hit her with a shovel "across her head and her arm and her legs down here (indicating)." *Id.* Swift demonstrated how Saunders struck Nina with the shovel and when asked, "How did he hit her?" Swift said "Like this, overhead (indicating)." Swift said he had two hands on the shovel when he struck her. *Id.* Swift described the shovel as a "brown wood, like metal, a green metal piece and then a handle...and like a spade." Swift said Nina fell to the ground after she was hit with the shovel and started shaking. She had a cut across her head and blood was coming from the cut and pooling on the floor. Richardson picked Nina up again and started choking her with both his hands from behind. Swift, Saunders and Thames watched as Richardson choked her to death. *Id.* at 13. When Richardson stopped choking Nina, she fell to the ground, started shaking and foam was coming out of her mouth and she stopped breathing. Nina was still wearing the ripped shirt and pants. Saunders said they had to get rid of her. Thames got a white sheet from upstairs and Swift watched outside on 54<sup>th</sup> and Bishop for the police. Swift saw his co-offenders walk eastbound from where Swift was standing and walked through an alley. All three were carrying Nina' body in the sheet. Swift lost sight of them when

they turned left towards 55<sup>th</sup> and Loomis. When they returned, Thames said that they had to clean the mess up. Saunders got a mop from the corner store at 54<sup>th</sup> and Bishop. Saunders, Richardson and Thames came out with the shovel and mop and threw them in the lagoon at Sherman Park from a bridge, “like the first bridge. It comes south, you come from the south, the first bridge right there at Libby School.” (Note: Divers recovered both the shovel and mop handle within 25 and 15 feet respectively from the bridge over the lagoon. Exhibit D, Supplementary Report dated March 12, 1995 and diagram of dive scene) Swift then went home, took a shower and went to bed. The next day, he saw Richardson and Thames. Richardson said “the trick still owed him money, but its over with. She out of here.” *Id.* at 19.

**B. Vincent Thames**

10. Vincent Thames pleaded guilty to first degree murder and aggravated criminal sexual assault in exchange for a 24 year term of incarceration. He moved for DNA testing 10 years after his plea. The trial court dismissed his request for post-conviction DNA testing and the appellate court affirmed holding that identity is not an issue when a defendant pleads guilty. Exhibit E, *People of the State of Illinois v. Vincent Thames*, No. 1-09-0528(1<sup>st</sup> Dist. 2010)

11. Thames gave a handwritten confession to the rapes and murder of Nina Glover. Exhibit F, Statement of Vincent Thames. Thames corroborated Swift’s account and admitted being a member of the Blackstone street gang. He knew the co-offenders through their membership in the street gang. Thames first saw Nina talking to “Pud” (Terrill Swift) and Mo-Mike (Harold Richardson). Thames knew Nina for two years and had sex with her prior to the date of her murder. Thames stated that Nina had stolen \$400

from him. Saunders (known as the “undertaker”) was already in the basement behind 5354 S. Bishop. *Id.* at 3, 6. Thames stated that Nina performed oral sex on all the offenders and then engaged in intercourse with the offenders. Thames stated that Richardson said they were going to change the “bitch” meaning they were going to kill her. When Nina got up, Thames punched her in the chest because he was mad at her for stealing his money. Swift punched Nina in the chest and the legs. Both Thames and Swift began punching and kicking Nina in the chest and legs. *Id.* at 3. Richardson stated “On stone you stole my work.” Nina said “I aint take nothin’ of yalls.” Thames said Richardson came up behind Nina and grabbed her around the neck with both hands because he was mad at her for stealing his drugs. While Richardson had Nina by the neck, Saunders hit Nina in the head with a shovel that had a thick wood handle and a point on the metal part. Thames said Saunders “swung the shovel with both hands and struck her in the head about 4 times.” *Id.* at 4. Richardson continued to choke her face first to the floor and when she fell to the floor, Richardson said he was going to get a sheet. Nina was lying naked on the floor and was not moving. Thames said he went to his house next door and saw Richardson with a sheet. Richardson told him to be “on security.” Thames stood on the corner of 53<sup>rd</sup> street and saw Richardson and Saunders go into the basement. They came out about 5 minutes later with Nina wrapped in the sheet. Richardson had the front and Saunders had the back. They were both carrying her dead body over their shoulders. Thames watched them walk down the alley behind Bishop until they got to 55<sup>th</sup> street and turned left and he lost sight of them. *Id.* at 5. Thames said he went home, listened to the radio and talked to his cousin Darryl on the phone and then went to sleep. Thames added and changed his handwritten statement. *Id.* at 7.

Thames admitted that the murder occurred at his house and not next door. Additionally, Thames added that Richardson tore Nina's clothes off. He also changed the consensual sexual acts stating that the offenders forced her to engage in intercourse while the co-offenders held her arms and legs. Nina was screaming as Richardson "pumped on her." *Id.* at 8. Thames stated that Saunders, "the undertaker then began pumping on her." *Id.* Then Swift "pumped her while Vincent held her arms down." Nina was yelling "StopStop." *Id.* at 9. Thames said that he switched positions with Swift and when he got on top of Nina, she slapped him in the face. Pud then held her arms down while "Vincent pulled his jogging pants down removed his penis and "fucked 'Pico'." Thames said after they beat Nina, she was bleeding and he retrieved the sheet from his bed. He described the sheet as white with flowers on it. He returned to the basement and threw Nina's clothes on top of her body. *Id.* at 9-10. Richardson and Saunders wrapped Nina in the sheet and carried her body out of the basement. *Id.* at 10. Thames said he made up the earlier statement because "he thought he could get away with it." *Id.* at 11.

**C. Harold Richardson**

12. Harold Richardson was convicted after a bench trial. Exhibit G, *People v. Richardson*, No. 1-98-1348 (1<sup>st</sup> Dist. 1999), *affd.* on appeal, 196 Ill.2d 225 (2001). Richardson's sole issue on appeal was that the trial judge considered victim impact statements in violation of the Rights of Crime Victims and Witnesses Act. 725 Ill. Comp. Stat. 120/1 et seq. Richardson did not contest the sufficiency of the evidence to support his conviction. *Id.* at 1. His conviction and sentence were affirmed by both the appellate and supreme court. *Id.*

13. Richardson gave an oral statement to Assistant State's Attorney Fabio Valentini. Exhibit H, Memorandum regarding Harold Richardson's oral Statement which occurred on November 6, 1994. Richardson was 16 years old and A.S.A. Valentini spoke to him with both his parents present. Richardson stated that his nickname is "Mo-Mike" and he is a member of the Blackstones street gang. He knows the co-offenders because they are also members of that street gang. On November 6, 1994, he was at the corner store at 54<sup>th</sup> and Bishop with Thames, Saunders and Swift. After Saunders pointed the victim out, he called Nina over and Saunders put his arm around her and walked her to the gangway between the store and Thames' house. When they got to the basement, Saunders knocked Nina to the ground and they ripped Nina' pants off. Saunders got on top of Nina and "fucked" her while the co-offenders held her arms and legs. Then Thames had intercourse with Nina and when Richardson had intercourse with her, Nina yelled "That's enough that's enough." Swift engaged in sexual intercourse with Nina after he was finished. When Nina started getting up from the floor, Saunders yelled to Richardson to grab her and he grabbed her around the throat. When he let her go, she fell to the floor. Saunders struck her with a shovel about 12 times. Richardson said there was a lot of blood. When he stopped striking Nina with the shovel, Nina was not moving. Saunders said "We gotta get the bitch outta here." Thames left and came back with a bed sheet. They undressed Nina and wrapped her up in the sheet with her clothes. While Swift acted as a lookout, he went down the alley behind the store and yelled back "All's well." If he had seen the police, he would have yelled back "One time." Thames and Saunders carried Nina' body through the alley across 54<sup>th</sup> street and turned left before Garfield Boulevard. Thames carried the front part of the sheet and Saunders was

behind him. Richardson went to the corner store. Thames and Saunders returned a few minutes later with a mop. Richardson and Swift acted as security while Saunders and Thames returned to the basement. After a few minutes, he went with Swift to smoke a “bud” which is marijuana. Richardson identified a picture of Nina Glover as the woman they raped and killed in Thames’ basement.

**D. Michael Saunders**

14. Michael Saunders was found guilty after a bench trial. Exhibit I, *People v. Saunders*, 307 Ill. App. 3d 406 (1<sup>st</sup> Dist. 1999) On appeal, Saunders argued that Judge Sumner was barred by the doctrine of collateral estoppel from considering additional evidence after granting his motion to suppress statements. Judge Sumner initially found that police had not engaged in adequate efforts to contact Saunders’ mother since he was a juvenile. *Id.* at 406. Judge Sumner specifically found that the police had not slapped Saunders as he alleged and testified. *Id.* at 411. After hearing additional testimony, Judge Sumner denied petitioner’s motion to suppress his statements noting that even Saunders’ mother was hesitant when testifying to her address. *Id.* at 412. Saunders’ conviction was affirmed. *Id.* at 414.

15. Saunders gave a handwritten statement to the rape, strangulation and beating death of Nina Glover. Exhibit J, Handwritten statement of Michael Saunders. Saunders admitted being a member of the Blackstone street gang. On the night of the murder, he was at 54<sup>th</sup> and Bishop in Blackstone territory. He was with Richardson, Swift, Thames and Jerry Fincher. (Note: Fincher initially told the police information about Nina’s murder which led to the arrest of all offenders. Exhibit K, Supplementary Report dated March 13, 1995) Richardson called Nina over and mentioned that she was a

“hype” or “junkie.” He went with Richardson, Thames, Swift and Nina through the gangway to the rear of Thames’ house. Richardson told Fincher to act as security. Saunders knew that Fincher was to act as security while they all raped Nina. When they got to the rear of Thames’ house, Thames let them in and they went to the basement. Nina said something like “I ain’t gonna do y’all.” Richardson pushed Nina to the floor and pulled off one leg of her pants. Nina struggled with her legs and arms and Saunders and Swift held her arms while Thames held her legs. Richardson raped Nina while they held Nina down by her arms and legs. Saunders then raped Nina while Richardson held her arms with Swift and Thames still holding her to prevent her from struggling. While Saunders raped Nina, she said “Get off, get off.” Thames then raped Nina while Saunders held down Nina’ legs. When Swift raped Nina, she was naked. Saunders said Nina was wearing a red jacket and a yellow jacket. Richardson said “I don’t like this bitch and she stole drugs from Mo-Mike.” (Note: Mo-Mike is Richardson’s nickname) Richardson punched Nina in the face and grabbed her by the neck and began shaking her. Swift also hit Nina in the face. Saunders claimed he just stood there and watched figuring that Richardson was going to kill Nina when he made the statement about not liking her. When Richardson was done, Nina was not moving. Richardson said “We gotta get the bitch outta here.” Thames left and returned with a sheet. They put her in the sheet and Richardson, Saunders and Thames carried her out the back door. Richardson told Swift to act as security and he walked to 54<sup>th</sup> and Bishop to act as a look-out. After they walked with Nina’s body out the back door, Saunders went to the end of the Bishop alley at 54<sup>th</sup> street while Richardson and Thames carried Nina towards Garfield Boulevard. After they got to an alley before Garfield, they turned left and Saunders went

home. Saunders recalled a shovel in the basement with a wooden handle and a spade type thing on the end of it.

### III. ARGUMENT

#### A. Introduction

16. A section 2-1401 petition is to correct all errors of fact occurring in the prosecution of a cause, unknown at the time a judgment was entered, which, if then known, would have prevented its rendition. *People v. Berland*, 74 Ill 2d 286, 313-14, 385 N.E. 2d 649 (1978). A section 2-1401 petition, however is “not designed to provide a general review of all errors nor to substitute for direct appeal.” *Berland*, 74 Ill 2d at 314. Points previously raised at trial and other collateral proceedings cannot form the basis of a section 2-1401 petition for relief. *Berland*, at 314-15.

17. A petitioner has the burden of alleging and proving a sufficient basis for vacating a final order and where the petition fails to state a cause of action or shows on its face that the petitioner is not entitled to the relief sought, **it should be dismissed.** *McKnelly v. McKnelly*, 38 Ill. App. 3d 637, 348 N.E. 2d 500 (5<sup>th</sup> Dist. 1976) [Emphasis added]. In order to be entitled to relief, a petitioner must set forth specific factual allegations establishing each of the following elements: (1) existence of a meritorious defense or claim; (2) due diligence in presenting this defense or claim to the trial court in the original action; and (3) due diligence in filing the petition under this section. *Margaretten & Co. v. Martinez*, 193 Ill. App. 3d 223, 550 N.E. 2d 8 (2<sup>nd</sup> Dist. 1991). These are the prerequisites of the statute for a cognizable petition. These elements must, at a minimum, be sufficiently pled to warrant any further consideration. 735 ILCS 5/2-1401 (2002). A convicted petitioner may file a section 2-1401 petition to present errors

of fact, unknown to the petitioner or the court at the time of trial that would have caused the court to render a different decision. *People v. Mahaffey*, 194 Ill. 2d 154, 742 N.E.2d 251 (2000).

18. To raise a claim based on actual innocence, a defendant must present new, noncumulative evidence that could not have been obtained with due diligence during his trial. *People v. Dodds*, 344 Ill. App. 3d 513, 519, 801 N.E.2d 63, 69 (1<sup>st</sup> Dist. 2003). To merit a new trial, the defendant must show that the new evidence is so conclusive that it would probably change the result on retrial. *People v. Johnson*, 205 Ill. 2d 381, 392, 793 N.E.2d 591, 598 (2002). The instant petitioners fail to meet the established requirements for relief and their motion should be dismissed as a matter of law.

**B. Vincent Thames' Guilty Plea Bars Him From Raising a Claim Under 735 ILCS 5/2-1401.**

19. Although petitioner Thames has elected to join his co-defendants in the motion currently before the Court, his request for relief must be viewed differently than those of Richardson, Swift and Saunders. Thames is distinguished by the fact that he entered a knowing and voluntary plea of guilty. It is important to note that while the petitioners rely primarily on the results of a CODIS database search conducted pursuant to 725 ILCS 5/116-3, Thames was not included in proceedings under that section because he is not legally entitled to relief under 116-3 due to his guilty plea. See *People v. O'Connell*, 227 Ill. 2d 31 (2007). Although section 2-1401 allows an exception to its 2 year filing limitation for actions based upon 720 ILCS 5/116-3, Thames should not be allowed to effectively "bootstrap" this exception since section 116-3 otherwise bars him from post-conviction relief. The judgment in question here was entered solely because petitioner Thames caused it to be entered through his plea. This Court should not now

provide relief from the repercussions that that he voluntarily chose to accept, with the full benefit of counsel.

**C. Petitioners' Confessions Must Stand.**

20. Petitioners now ask this Court to disregard the confessions in which each implicates himself and his co-defendants. All issues involving the confessions were, or should have been, litigated prior to trial. Petitioners offer no evidence of the type of factual error contemplated by 2-1401 in regard to their confessions. This Court should accept the confessions at face value since they have already been subjected to scrutiny at trial under the reasonable doubt standard as well as to scrutiny on appeal. It is interesting to note that petitioners Richardson and Saunders did not even contest the sufficiency of the evidence in their direct appeals.

21. Although it involves proceedings under the Post-Conviction Hearing Act, the case of *People v. Orange* is instructive here. In *Orange*, the petitioner characterized as newly discovered evidence various sources of information that petitioner contended established a pattern of police torture that provided him with the basis for relief in regard to his own confession. *People v. Orange*, 195 Ill. 2d 437 (2001). The Illinois Supreme Court upheld the dismissal of a successive post-conviction petition and reaffirmed that the well established doctrines of waiver and *res judicata* apply in post-conviction proceedings where a petitioner has raised or has failed to raise claims at an earlier proceeding. *Id.* The instant petitioners are likewise time-barred under the 2 year limitation of section 2-1401 from raising issues concerning the credibility of their confessions since due diligence required them to raise those issues before the trial court.

**D. The Mere Identity of the DNA Donor is Insufficient to Merit New Trials.**

22. The only true issue before this Court is actually very simple: whether the discovery of the identity of the individual whose DNA was found in the victim is so conclusive that it would probably change the result on retrial. In light of the facts and history of this case, it is not. Each of the petitioners confessed. The confessions were corroborated by physical evidence. One of the petitioners pleaded guilty. The fact that each of the petitioners is excluded as a possible source of the DNA was known to Judge Sumner at the time of the trials and plea. This Honorable Court should not now disturb the findings made by Judge Sumner after his thoughtful consideration of all the evidence and his determinations as to the credibility of the witnesses.

23. We are not here grappling with the initial discovery of a DNA profile. The only thing that has changed since petitioners were convicted is that there is now a name associated with that profile: Johnnie Douglass. Petitioners rely on the notion that the criminal history of Douglass standing alone must mean that he is the murderer of Nina Glover and automatically entitles them to new trials. That is not the law, and that is not what the “new evidence” taken in light of the trial evidence merits.

24. The trial court heard testimony regarding the petitioners’ confessions on multiple occasions. As is evidenced by the fact that defendant Jerry Fincher’s statement was suppressed, the trial court obviously took its role as a fact finder very seriously and made specific determinations that distinguished one confession from another. Just as obvious is the fact that the trial court demonstrated that it would not hesitate to suppress the confession of an accused murderer if it believed such a sanction was warranted. The

trial court's determinations that each petitioner's confession was lawfully obtained and that the evidence presented at each trial satisfied the onerous burden of proof beyond a reasonable doubt must be given great deference in these proceedings.

25. The petitioners' confessions do not stand as the only evidence of their guilt. After confessing Terrill Swift physically led police to the Sherman Park lagoon and showed them where the shovel and mop handle were thrown in. A police dive team then searched the area and recovered the shovel and mop handle right where Swift told them they would be. This cannot be considered mere coincidence. It is inconceivable that Swift would randomly select a location and that four months after the murder two distinct pieces of evidence would be found there. The recovery of those items strongly corroborates the petitioners' confessions and is damning evidence of the petitioners' guilt.

26. Further physical corroboration may be seen in the fact that upon conducting a search of Vincent Thames' basement the police recovered apparent bloodstains from a television set and drapes that bore what appeared to be blood stains. (*Swift* Appellate Order, Exhibit A) Stipulations were entered at the trial of Swift and at the simultaneous bench trial of Richardson and Saunders regarding testing of those stains. (Exhibit A at p. 5; *Swift* R. J-17-18; *Richardson* R. I-182-183) While human blood was identified in those stains, it was not possible to conduct further testing due to biological degradation. *Id.*

27. The People agree with the petitioners that the victim in this case made some tragic choices that subjected her to what petitioners characterize as a "high risk lifestyle." (Pet. Amended Joint Mot. P. 4) If one believes that the victim regularly

engaged in drug use and prostitution then an individual such as Johnnie Douglass is exactly the type of person one would expect her to have a sexual encounter with. It is not realistic to assume that Douglass raped and killed every woman with whom he came into contact, which is what petitioners appear to suggest in their motion. To the contrary, it is far more likely that the victim and Douglass engaged in a consensual encounter because that is what their respective lifestyles involved. Douglass' presence in the vicinity when the victim's body was recovered supports the notion that Douglass and the victim encountered one another as a mere function of geography and lifestyle. When considering the significant efforts made to hide the victim's body away from the scene of her murder in the hope that it would be removed with the trash and not be discovered, it makes little sense that the killer or killers would hang around for many hours in the cold of November waiting for the police to show up.

28. The lifestyle Nina led means that she frequented that location and exchanged sex for drugs on a regular basis. The fact that she engaged in sex with Douglas prior to her murder corroborates that Nina engaged in sex with multiple partners on a daily basis. The notion that whoever's DNA was recovered from her deceased body must have also killed her is not supported by any theory. She may have had sex with Douglas the previous night and not washed or the petitioners may have raped and killed her after she traded sex for drugs with Douglas. All are reasonable explanations to explain why Douglas' DNA was recovered. More importantly, the fact that DNA was recovered from the victim that did not match the petitioners was known to the trial court at the time of trial and this did not sway the trier of fact to find petitioners not guilty.

29. Petitioners place great emphasis on the criminal history of Douglass in an effort to convince this Court to disregard the evidence and history of this case and to leap to the conclusion that Douglass must be guilty simply by virtue of his record. This is precisely the type of reasoning that generally serves to bar evidence of other crimes. Evidence of a crime for which a defendant is not on trial is inadmissible if relevant merely to establish the defendant's propensity to commit crime. *People v. Manning*, 182 Ill. 2d 193, 213, (1998).

30. Although Douglass is a convenient scapegoat for petitioners, this Court should not assume that all or any of the details of his criminal history would be admitted at a hypothetical re-trial of petitioners. Even under the recently created exception to the general bar against propensity evidence in 275 ILCS 5/115-7.3, a number of significant differences exist between Douglass' crimes and the murder of Nina Glover that would preclude admission of Douglass' history. Taking the factual summaries provided by petitioners in their motion at face value, the most glaring difference is the fact that Douglass' victims were left where they were killed and none of the elaborate efforts to dispose of the body, dispose of the weapon, and sanitize the crime scene are found as they are here. The logical conclusion is that what petitioners espouse as Douglass' *modus operandi* does not fit the facts of this case.

31. The trial court was fully aware of the fact that a DNA profile had been generated from a vaginal swab collected from the victim, and of the fact that the profile excluded all five of the original defendants as possible sources. All of the arguments regarding the "real killer" as the source of the profile versus a consensual partner were either made or could have been made at trial. Since Judge Sumner was aware of the

exclusion, he obviously rejected the exclusion evidence in favor of the overwhelming evidence against petitioners. DNA evidence that plays a minor role and is a collateral issue is not materially relevant because it does not significantly advance a claim of actual innocence. See, *People v. Gecht*, 386 Ill. App. 3d 578, 582 (1<sup>st</sup> Dist. 2008) citing, *People v. Savory*, 197 Ill.2d 203,213 (2001). In the end, the trial court found that the evidence presented against the petitioners outweighed possible alternatives beyond a reasonable doubt.

#### **IV. CONCLUSION**

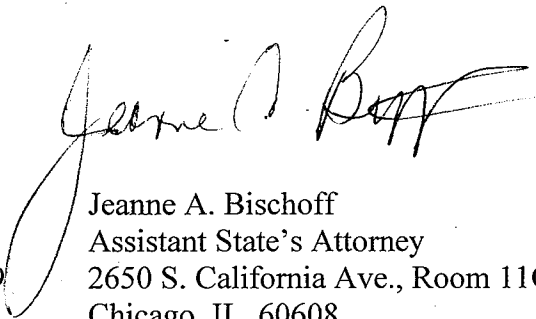
32. The issue here is simple. Is the discovery of the name of the donor of the DNA profile found in the victim sufficient to overcome the evidence already presented at trial, sufficient to overcome a knowing and voluntary plea of guilt, and sufficient to overturn the findings of the appellate court? Given the scrutiny to which the petitioners' confessions have already been subjected, given the fact that police were led to physical evidence by one of the petitioners four months after the murder, given a guilty plea from one petitioner, and given the fact that the trial court was fully aware that petitioners were excluded as the source of the profile, the identity of the donor does not merit any of the relief requested. This Court should uphold the trial court's decisions and deny petitioners' motion to vacate their convictions.

WHEREFORE, the People respectfully ask that this Honorable Court dismiss petitioner's motion filed pursuant to 735 ILCS 5/2-1401.

Respectfully submitted,



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# **EXHIBIT A**

*affirmed*  
12-13-99

FIRST DIVISION  
DECEMBER 13, 1999

\$100.00

No. 1-98-2624

*ANN HAGERTY*  
*ROBERT HOVEY*

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

NOTICE

The text of this order may be changed or corrected prior to the time for filing of a Petition for Rehearing or the disposition of the same.

*99-1731*

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 95 CR 9676
	)	
TERRILL SWIFT,	)	Honorable
	)	Thomas R. Sumner,
Defendant-Appellant.	)	Judge Presiding.

O R D E R

Following a bench trial, defendant Terrill Swift was convicted of first degree murder and aggravated criminal sexual assault and sentenced to consecutive prison terms of 30 years and 6 years, respectively. On appeal, he contends that the State failed to prove him guilty of either crime beyond a reasonable doubt. Defendant also contends that his confession to participating in the crimes was not voluntary.

At trial, Detective James Cassidy testified that on November 7, 1994, he was assigned to investigate a report that a waste management worker found the body of a woman in a dumpster behind a liquor store located at 1400 West Garfield Boulevard in Chicago. Upon arriving at the crime scene, Detective Cassidy looked into the dumpster and saw a human foot sticking out from

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underneath a white sheet. There were socks on the feet. When he removed the sheet, he saw the badly beaten nude body of a black woman, who appeared to be approximately 30 years old. Both of her eyes were swollen, she had a large laceration over her right eye, and there were bruises on her throat. She was later identified as Nina Glover.

Four months later, defendant was brought to the police station and questioned about Nina Glover's death by Chicago police detectives Richard Paladino, Ken Boudreau, and Valdez. Defendant's father lived in the area where Glover's body was found. During the interview defendant confessed to having taken part in the gang rape and murder of Glover, and he signed a 22-page court-reported statement describing his involvement.

In that statement, defendant relayed that he was a member of the Blackstone street gang, and that on November 5, 1995, he was standing at a street corner talking to fellow gang members Harold Richardson, Mike Saunders, and Vincent Thames when Glover crossed the street. When Saunders saw Glover, he said that "he hate[d] that bitch," and Thames said that she owed him about \$400. Saunders repeated that "he hated that trick" and "will change that bitch." Defendant clarified that, in that context, "change" meant "kill." Richardson called to her, and she came over and talked to him. Glover then accompanied the group to the basement of Thames' house.

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Once they were in the basement, Richardson grabbed Glover and ripped off her shirt. Saunders took her arm, and Richardson shoved her to the ground and took off her pants. Richardson, Saunders, Thames and defendant then took turns raping Glover. Next, Richardson picked her up and he and Thames started hitting her. Saunders hit her with his fist "all over her face and all of her body." Next, Saunders picked up a shovel that he found in the basement and hit her across the head, arms and legs. He hit her over the head with the shovel two or three times. Glover fell onto the floor and "started shaking." Defendant said that she looked exhausted and had a cut across her head. Richardson picked her up again and started choking her, with both hands wrapped around her neck while the rest of them watched. When he stopped, she fell to the ground and started shaking again with foam coming out of her mouth.

After she stopped breathing, Saunders said that they had to "get rid of her." Thames went upstairs and got a white sheet, and defendant went outside to "stand security" so he could let the others know if the police were in the area. Richardson, Saunders, and Thames brought Glover's body out wrapped in the sheet, and walked through the alley, but defendant did not see them throw the body into the dumpster. After they came back, they said that they had to clean up the basement, and went to the corner store to buy a mop. Defendant stayed outside while they

cleaned. When they finished cleaning, they took the mop and shovel to Sherman Park and threw them into the lagoon. Defendant did not see his codefendants again until the next morning. At that time, Richardson said, "the trick still owed him money, but it is over, she out of here."

Defendant ended his statement by noting that he was treated well while he was in custody, was given food and soft drinks, and was not threatened or offered anything in exchange for his statement.

Detective Paladino testified that after defendant was interviewed, they took him to the Sherman Park lagoon, and he showed them where his codefendants threw the shovel and mop. Divers recovered a shovel and what could have been a mop handle. The detective testified that defendant told them that his codefendants broke off the handle of the mop after they discovered that they could not burn it. They also conducted a search of Thames' basement and recovered several "blood standards" and a curtain that appeared to have bloodstains on it.

Assistant Chief Medical Examiner Mitra Kalelkar performed the autopsy on Glover's body on November 8, 1994. Dr. Kalelkar testified that Glover suffered a number of injuries prior to her death, including an abrasion on the left side of her forehead and a laceration above her right eyebrow, injuries that were consistent with being hit with a shovel. Dr. Kalelkar further

testified that Glover had several injuries consistent with being hit with a fist. Glover also had an abrasion under her chin, bruises on her neck, and hemorrhages in her eyes, the muscles of her neck, in her thyroid cartilage, and underneath her vocal cords. She also had bite marks on her tongue. The doctor said that all of these injuries were consistent with strangulation. She testified that, in her opinion, Nina Glover died from manual strangulation. She also stated that after Glover was strangled, her body would have gone into convulsions, and she would have foamed at the mouth, as described by defendant in his confession.

The parties stipulated that although semen samples were recovered from Glover's body during her autopsy, DNA tests showed that defendant was excluded as the source of the semen. They also stipulated that the blood samples recovered from the basement were not able to be tested for DNA because the blood was eroded by bacteria before the samples were collected.

Defendant contradicted his confession during his trial testimony. He testified that he did not witness or take part in Glover's rape or murder. He claimed that during his interview at the police station, Detective Paladino told him that they needed someone to "put himself" at the scene so that they could bring in the suspects, and that if defendant would do that, he could go home. He said that he knew the details of the murder from hearing about it around the neighborhood, and that Detective

Paladino also told him what to say, and which area to identify in the Sherman Park lagoon. Defendant also testified that he asked for a lawyer several times before he was questioned. He said that though he was friends with Thames, he did not know fellow Blackstone gang members Richardson and Saunders well at the time of the murder.

The court found defendant guilty of aggravated criminal sexual assault and first degree murder, stating:

"[T]he defendant \*\*\* wants me to believe that by implicating himself, not just saying I saw it or I heard it, or I was a witness to it, but I fully participated in it. I didn't just stand on the corner and watch the other people do it. I did it, too. I held her down. That by saying that, then you can go home. \*\*\* I can't buy that logic. I am sorry. \*\*\* We have got a 22 page confession, and that is enough for me."

The court again noted that it found defendant's explanation for his confession "unacceptable" upon denying his motion for a new trial. The court stated:

"DNA testing certainly suggested that he did not leave any seminal material, as well as the codefendants. But Mr. Urban's theory about this presumed ejaculation, I don't find it hard to believe at all, that there was no

ejaculation or seminal fluid left by the Defendant."

Defendant now contends that the State failed to prove him guilty of either crime, arguing that the prosecutor did not offer any evidence that tended to corroborate his confession.

Defendant also argues that even if the confession is assumed to be true, his participation in the crime was not sufficient to convict him of Glover's murder under an accountability theory. Defendant last contends that the State coerced his confession by promising that he could go home if he made a statement.

The corpus delecti of a crime cannot be proved by defendant's confession alone. People v. Lambert, 104 Ill. 2d 375, 378 (1984). Proof of the corpus delecti includes both proof of injury or loss, as well as proof that the injury was caused by criminal conduct. People v. Furby, 138 Ill. 2d 434, 446 (1990). The identity of the accused as the offender is not considered part of the corpus delecti. Furby, 138 Ill. 2d at 446. In establishing the corpus delecti, there must be some evidence, apart from the confession, which demonstrates that a crime occurred. People v. Willingham, 89 Ill. 2d 352, 360 (1982). "[I]f the independent evidence tends to prove that an offense occurred, then such evidence, if corroborative of the facts contained in the confession, may be considered along with the confession in establishing the corpus delecti." (Emphasis in original.) Willingham, 89 Ill. 2d at 361.

In this case, we find that the independent evidence was sufficient to corroborate defendant's confession. Though he argues that the State was required to offer physical evidence of penetration in order to prove the sexual assault charge, in People v. Bounds, 171 Ill. 2d 1, 43-44 (1995), the Illinois Supreme Court held that such evidence is unnecessary where the body is found undressed. Bounds was very similar to this case. There, the victim was found lying unclothed on a mattress in an unheated apartment with an extension cord wrapped around her neck. The defendant argued that there was no physical evidence, such as the presence of semen or trauma to the victim's vaginal area, to corroborate his confession that he sexually assaulted the victim before murdering her. The court found, "[w]hile not conclusive proof that an act of penetration occurred, the undressed condition of the body tended to show that the victim was sexually assaulted and corroborated the defendant's description of the attack. The *corpus delecti* of the offense of aggravated criminal sexual assault may be established in the absence of physical evidence of the type suggested by the defendant." Bounds, 171 Ill. 2d at 44. Here, Glover's body was found completely undressed except for a pair of socks. As in Bounds, her undressed condition was enough to corroborate defendant's version of the attack.

The evidence was also sufficient to establish the corpus

delecti for the offense of murder. Dr. Kalelkar testified that the injuries found during her autopsy were consistent with the description of the attack given by defendant in his confession. She also confirmed that Glover would have experienced seizures of the type described by defendant had she been strangled in the manner that he relayed.

Moreover, the finding of a shovel and what could have been a mop handle in the area of the Sherman Park lagoon identified by defendant tends to corroborate his confession. In addition, Glover's body was found wrapped in a white sheet, just as defendant described. The many descriptive details in defendant's confession that match the physical evidence undermine his testimony that he lied to the police after being told to place himself at the scene so that he could go home.

Defendant also argues that his mere presence at the scene is insufficient to establish his accountability for murder.

According to section 5-2 of the Criminal Code, accountability exists when "[e]ither before or during the commission of an offense and with the intent to promote or facilitate such commission, he solicits, aids, abets, agrees or attempts to aid, such other person in the planning or commission of the offense." 720 ILCS 5/5-2(c) (West 1996).

Active participation has never been a requirement under the accountability theory. People v. Ruiz, 94 Ill. 2d 245, 254

(1982). In his confession, defendant stated that before the group entered the basement, Richardson told them that he would kill Glover. He also stated that although he did not physically participate in Glover's murder, he did help his codefendants in their attempt to cover up the murder by "standing security" during their transfer of Glover's body to the dumpster and during their clean up of the basement. Proof that the defendant was present during the commission of the crime, that he maintained a close affiliation with his companions afterward, and that he failed to report the crime are all factors that may be considered by the trier of fact in determining the defendant's accountability. People v. Reid, 136 Ill. 2d 27, 62 (1990). Here, accountability is established by defendant's knowledge that Richardson intended to kill Glover before they entered the basement, his presence and participation during Glover's rape and his presence during her murder without disapproving the act, his participation in covering up the crime by "standing security" and his failure to report the crime to the police afterward. This evidence is sufficient to hold defendant accountable for Glover's murder despite the fact that he did not physically contribute to the injuries that resulted in Glover's death. See Reid, 136 Ill. 2d at 61-65; People v. Johnston, 267 Ill. App. 3d 526, 534-35 (1994).

Finally, defendant argues that his confession was not

voluntary and was coerced by the detectives' assurances that if he confessed, he would go home. Defendant cites his young age at the time of the confession, the length of his stay at the police station prior to making the statement, and his level of education as factors which show that his statement was not voluntary.

It is not entirely clear whether defendant is contending that the trial court committed error in admitting the confession into evidence, or whether he instead argues that the confession was not credible. However, a review of the record shows that defendant did not object to the admission of the confession into evidence at any point during the proceedings before the trial court. Defendant did not raise the issue in a pretrial motion, and did not make an objection during the trial. Nor did he include it in his motion for a new trial. As such, defendant has waived any error concerning its admissibility. People v. Terrell, 62 Ill. 2d 60, 63 (1975).

Further, the trial court specifically found the confession to be credible. In response to defendant's testimony that he was told by the police that he would go home if he implicated himself in the crime, the court stated, "I don't buy that logic. \*\*\* We have got a 22 page confession, and that is enough for me." After hearing defendant's motion for a new trial, which was largely based on the same argument, the court again said, "I have listened very carefully, not only to the police, but to the

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Defendant as well because he testified, and I found his explanation \*\*\* to be unacceptable." The credibility of witnesses regarding the voluntariness of a confession is to be determined by the trial court, and its decision will not be reversed unless it is against the manifest weight of the evidence. People v. Gilliam, 172 Ill. 2d 484, 505 (1996). In this case, we find that the trial court's decision was not against the manifest weight of the evidence.

Accordingly, the judgment of the circuit court is affirmed. As part of our judgment, we grant the State's motion and assess defendant \$100 as costs of this appeal.

Affirmed.

TULLY, J., with O'MARA FROSSARD, P.J., and RAKOWSKI, J., concurring.

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# **EXHIBIT B**

RE: INVESTIGATION OF THE STRANGULATION AND  
BEATING DEATH OF NINA GLOVER

S T A T E M E N T

of

TERRILL SWIFT,

taken in an interview room, 2nd floor, Area 1  
Headquarters, 5101 South Wentworth, Chicago, Cook  
County, Illinois, on Friday, March 10th, 1995, at  
3:00 a.m.

PRESENT: Mr. Terence Johnson  
Assistant State's Attorney

Detective F. Valadez  
Star No. 21008  
Area 1, Violent Crimes

REPORTED BY: Cordelia Busse Wert, C.S.R.  
Illinois State License No. 84-2985

BOOK NO.: 9503-10-01

*Terrill Swift* *Terence Johnson*  
*Detective*

MR. JOHNSON: Let the record reflect that we are in an interview room at Area 1, Violent Crimes. Today's date is March 10th, 1995. The time is 3:00 a.m.

Present in the room with me, Assistant State's Attorney Terence Johnson, are Detective Valadez, Star No. 21008, the court reporter, and Terrill Swift.

We are here to take the statement of Terrill Swift concerning the investigation of the strangulation and beating death of Nina Glover, which occurred on November 6th, 1994, at approximately 9:00 p.m. at 5356 South Bishop.

EXAMINATION

BY MR. JOHNSON:

Q. Terrill, I talked to you earlier and explained that I am an Assistant State's Attorney, a lawyer and prosecutor, and not your lawyer; is that correct?

A. Yes, sir.

Q. And before we spoke, I advised you of your constitutional rights; is that correct?

A. Yes, sir.

Q. I am going to read you your rights

*Terrill Swift*  
*Det. Valadez*

again.

Do you understand that you have a right to remain silent?

A. Yes, sir.

Q. Do you understand that anything you say can be used against you in a court of law?

A. Yes, sir.

Q. Do you understand you have the right to talk to a lawyer and have him present with you while you are being questioned?

A. Yes, sir.

Q. Do you understand if you cannot afford to hire a lawyer, and you want one, a lawyer will be appointed by the Court to represent you before any questioning?

A. Yes, sir.

Q. All right. Before we get into the real questioning, why don't you spell your name for us?

A. T-e-r-r-i-l-l S-w-i-f-t.

Q. Do you have a nickname?

A. Pug, P-u-g, Pug.

Q. Okay. Are you in a gang?

A. I'm a Blackstone, yes.

Q. And how long have you been a Blackstone?

*Jerrill Swift*  
*Det. DeLa*

A. About four years, four years.

Q. And do the Blackstones go by any other name?

A. Morish American.

Q. Are they also called the Stones?

A. Yeah, Stones.

Q. I want to direct your attention to November 6th, 1994. Do you remember that day?

A. Yes.

Q. Why do you remember that day?

A. Because that was the day that Pico, she got murdered.

Q. I need you to keep your voice up.

A. Okay.

Q. On November 6th in the evening hours, do you remember where you were?

A. On 54th and Bishop, on the corner of 54th and Bishop.

Q. Were you with anybody else?

A. Yes.

Q. Who were you with?

A. Mo Mike and Vincent.

Q. And who are Mo Mike and Vincent?

A. Two other Stones.

*Jerrill Swift* *Tux*  
*Det. Kala*

Q. Are they also Blackstones?

A. Yeah.

Q. And what were you doing?

A. Just standing on the corner on 54th and Bishop. And Mike Stone walks up, and we're talking to him. And then Pico walks across the street.

Q. What happens when you see Pico?

A. Mike Stone says he hates that bitch, he hate that trick. And then ~~Mo Mike~~ <sup>VINCENT</sup> says that she owe him some money, about \$400 or something.

Q. Okay. And what is the next thing that happens?

A. Mo Mike calls her, called Pico, and she come and he talked to her. Then he says something. I'm not sure what, but he says something to her. And then Mo Mike looks to Vincent, and Vincent shakes his head.

Q. And then what is the next thing that happens?

A. They go to the back, the basement, of Vincent's house, on the corner of --

Q. Okay. On the corner of what?

A. 54th and Bishop, right off the corner

*Serrill Swift*  
*Det. Haler*

store, his house.

Q. Whose house is this?

A. Vincent's.

Q. Who all goes to the back in the basement of Vincent's house?

A. Mo Mike, Mike Stone, Pico, and myself go through the back; and Vincent go through the front and opened up the back door for us.

Q. After Vincent opens up the door, then what happens? What's the next thing that happens?

A. We go downstairs in the basement, and *for then J.A. K*  
~~they~~ we stand around. And then for about --

Q. Who all goes into the basement?

A. Myself, Mike Stone, Mo Mike, and Vincent and Pico.

Q. Is Mike Stone also a Blackstone?

A. Yes, sir.

Q. Is Vincent also a Blackstone?

A. Yes, sir.

Q. Is Mo Mike also a Blackstone?

A. Yes, sir.

Q. Okay. Now, before everybody went down in the basement, did anyone say anything else about Pico?

*Serrill Swift King*  
*Det. Taylor*

*MS*  
*MS*  
A. ~~NO.~~ <sup>YES.</sup> *J.D. H* That she owed some money, that was

it.

Q. Did Mike Stone say anything else about Pico?

A. He said he hated that trick. He will change that bitch.

Q. And what does that mean?

A. Change mean kill.

Q. After you were all in the basement, what is the first thing that happened?

A. Mo Mike grabbed her and then proceeded to rip off her shirt. Mike Stone grabbed her by the arm. And Mo Mike pushed her down on her ass.

Q. As Mo Mike grabbed her from her shirt, what did Pico do?

A. She started like to struggle, like tussle, "Let me go," starting hollering a little bit.

Q. And then what happened when she hollered?

A. Mike Stone grabbed her by the arm, and Mo Mike pushed her down to the ground and proceeds to take off her pants.

Q. Who started taking off her pants?

*Serrill Swift*  
*Det Swala*

A. Mo Mike.

Q. What did Pico do as Mo Mike started to take off her pants?

A. She started to fight like.

Q. And then what did you do?

A. I was just standing and looking.

Q. What did Mike Stone do?

A. He was holding her arm, and then I grabbed her arm. And then Vincent grabbed her.

Q. Where did Vincent grab her?

A. Around by her ankles.

Q. What is the next thing that happened?

A. Mo Mike started to fuck her.

Q. Did she have any clothes on at the time?

A. No.

Q. Was she naked?

A. She wasn't all the way naked. Her shirt was ripped and her pants were like to her ankles.

Q. As Mo Mike was on top of her, was she facing him or facing the floor?

A. Facing him.

Q. At that time what was Mike Stone doing?

A. He was holding her arm.

Q. What was Vincent doing?

*Jerrill Swift*  
*D. J. [Signature]*

A. Holding her ankles, around her legs down there.

Q. What were you doing?

A. I was holding her arm.

Q. Okay. What is the next thing that happened as Mo Mike was on top of her and you were holding her down? What is the next thing that happened?

A. Mo Mike got up, and then Mike Stone started to fuck her.

Q. And then what was Mo Mike doing?

A. Holding her arm, and I was holding her arm, and Vincent was holding her ankle.

When Mike Stone got through, I started fucking her. Mo Mike grabbed her arm, and Mike Stone was holding her arm, and Vincent grabbed her ankle.

Q. And what happened after that?

A. After I got through, Vincent started fucking her. I grabbed the ankle, around the knees, and Mo Mike grabbed her arm and Mike Stone was holding her arm.

Q. Okay. Now, as all of you took turns on top of her, what was she doing?

*Serrill Swift*  
*Det. [Signature]*

A. Like moaning, like struggling, like she was weak, like just laying there.

Q. And then after Vincent was done with her, what is the next thing that happened?

A. Mo Mike picked her up from her shoulder, like from her arm, and started hitting her. Then Vincent hit her.

Q. When you say Mo Mike started hitting her, what do you mean? How did he hit her?

A. Started punching with his fist all over her face and all of her body.

Q. And then what did Mike Stone do?

A. He hit her with a shovel.

Q. Where did he hit her with the shovel?

A. Right across her head and her arm and her legs down here (indicating).

Q. Where did he get the shovel from?

A. Out of Vincent's basement.

Q. When you say he hit her with the shovel, how did he hit her?

A. Like this, overhead (indicating).

Q. How many hands did he have on the shovel?

A. Two hands.

*Serrill Sweet Taylor*  
*Det. Taylor*

Q. Did he raise the shovel above his head?

A. Like over the shoulder like, like this, and proceeded to hit her across her head (indicating).

Q. How many times did he hit her on the head?

A. About two or three times.

Q. Did he hit her anywhere else?

A. On her legs and on her arm like.

Q. How many times did he hit her on the legs and arms?

A. About two, three -- two times.

Q. What did the shovel look like?

A. It was like a brown wood, like metal, a green metal piece and then a handle. It's a green metal piece around the handle and then the wood, a long wood piece, and like a spade, like in a shape, like in a shovel shape.

He hit her with the back of it, turned it around and hit her with the back of it across the head.

Q. How tall was the shovel?

A. About three, four feet, three or four feet.

Serrill Swift  
Det. [Signature]

Q. Now, after Mike Stone hit her with the shovel, what happened to Pico?

A. She fell down on the ground in the basement and just laid there and started shaking.

Q. When she fell to the floor, did you look at her?

A. I looked at her, and I was (indicating).

Q. What did she look like?

A. Like she was just exhausted.

Q. Did you see where she was cut at all?

A. Across her head, yeah. She had blood, a puddle of blood, but it wasn't a lot but there was enough.

Q. The blood was coming from what part of her body?

A. Her head.

Q. As she lay on the floor shaking, what is the next thing that happens?

A. Mo Mike picks her up again.

Q. How did he pick her up?

A. From the arm, gets her from behind and grabbed her by the neck and started choking her.

Q. Where was Mo Mike standing?

A. Like behind her.

*Serrill Swift King*  
*Det. Swales*

Q. What did he do from behind her?

A. He choked her.

Q. How did he choke her?

A. With both his hands, like wrapped around. Like how do I describe it? He's behind, just came from behind, and choking her like this, and she fell (indicating).

Q. Where did he put his hands?

A. Around her neck.

Q. As Mo Mike was standing behind her with his hands around her neck, what was Mike Stone doing?

A. He was just looking at her.

Q. What was Vincent doing?

A. He was just looking. We were just looking.

Q. What did you do?

A. I was looking.

Q. How long did you look at him with his hands around her neck?

A. About two or three seconds. I just looked and turned my head back around the other way.

Q. What is the next thing that you saw?

*Serrill Swift*  
*Paul Foubler* *Kent*

happen?

A. He stopped strangling her, and then she fell to the ground and started shaking. And then like foam came out of her mouth, and there was a puddle of blood. She stopped breathing.

Q. Now, when she was laying on the floor, did she have any clothes on?

A. No. The ripped off shirt and pants, and that was it.

Q. What is the next thing that happened?

Did anyone say anything?

*for J.S.H.*  
A. Mike Stone said we got to get rid of *her J.S.H. saw*  
*it.* We got to get out of here.

Q. And then what happened?

A. Vincent went upstairs and got a white sheet and covered her up. I went outside on 54th and Bishop standing on security.

Q. And what does it mean to stand on security?

A. Let them know when the police come.

Q. Where were you standing?

A. On the corner of 54th and Bishop.

Q. What is the next thing that you saw happen?

*Serrill Swift*  
*Det. [Signature]*

A. I seen Mo Mike, Mike Stone, and Vincent bring the body out, and I told them all well. So they come out with the body and takes her away.

Q. What exactly did you see Mo Mike and Mike Stone come out with?

A. Like <sup>in the J.D.B. with her J.D.B.</sup> a lady wrapped -- a body wrapped in a white sheet. Then they walked like towards -- I am on 54th and Bishop. They walked eastbound towards me and walked through an alley.

Q. Who was in front?

A. Mo Mike.

Q. And who was in the back?

A. Mike Stone, and Vincent was in the middle.

Q. And what did Mo Mike have in his hands?

A. A white sheet.

Q. And what did Mike Stone have in his hands?

A. A white sheet. They had her body, bringing it to the -- walking it through the alley, towards the alley.

Q. What did Vincent have in his hands?

A. The white sheet, carrying the body in it.

*Serrall Smith Taylor*  
*Det Savala*

Q. What did you do as they were carrying the white sheet with the body in it?

A. I was still standing security.

Q. Did you say anything else?

A. No.

Q. What is the next thing that you saw happen?

A. I seen them take the body down towards the -- like going to 55th and Loomis. They made a left, and I couldn't see them. I couldn't see. I'm standing on 54th and Loomis. And they walked through the alley and turn like coming towards Loomis, in the middle of Bishop and Loomis, they turned and made a left, and I couldn't see from then on.

Q. What is the next thing that happened?

A. They threw the body in the garbage.

Q. Did you see them do that?

A. No.

Q. What is the next thing you saw happen?

A. I seen them come back.

Q. Who all came back?

A. Mike Stone, Mo Mike, and Vincent.

Q. Did anyone say anything at that time?

*Terrell Swift*  
*Det. Tatala*

A. They got to clean the mess up down in the basement. Vincent said that we got to clean the mess up. And they went on and got a mop to clean the mess up.

Q. Did you see anyone get a mop?

A. Mo Mike.

Q. Where did he get that mop from?

A. From the corner store, from 54th and Bishop.

Q. Did you see <sup>him</sup> ~~them~~ go anywhere with the mop?

A. Vincent's house.

Q. What is the next thing you saw happen?

A. I seen Mo Mike and Vincent and Mike Stone come out with the <sup>the mop</sup> ~~mop~~ and shovel and take it to Sherman Park to get rid of it, threw it in the lagoon, in the water.

Q. I want you say that more slowly.

Who did you see come out of the basement?

A. Mo Mike, Mike Stone, and Vincent.

Q. And you said you saw them carrying something?

A. A shovel and the mop.

Terrell Swift  
Det. Faval

Q. Where did you see them go, if anywhere?

A. To Sherman Park.

Q. Did you walk with them?

A. I walked to 54th and Loomis again.

Q. Okay. From 54th and Loomis, what did you see?

A. I seen them go like stand on a bridge and throw the shovel and the ~~broom~~ <sup>mop</sup> into the water. *J.S.A.*

Q. What bridge were they standing on?

A. There is a bridge, like the first bridge. It comes south, you come south from like 51st. From 51st and come south, the first bridge right there at Libby School, right by the school.

Q. Okay. What did you see them do with the shovel and the mop?

A. They threw it in the water.

Q. Okay. What did you do after that?

A. Nothing. I walked away. And then I seen Mo Mike and Vincent the next morning on 54th and Bishop again.

Q. Where did you go when you walked away?

A. I went down to my girl's house, and then I went home.

Q. After you got home, what did you do?

*Serrill Swift*  
*Det. J. S. A.*

*you took J.S.B.*  
 A. I ~~enock~~ took a shower and went to bed.

Q. You said you saw Mo Mike and Vincent and Mike Stone later?

A. I didn't see Mike Stone the next day.

Q. Who did you see next day?

A. Mo Mike and Vincent.

Q. The next day, did you talk about anything?

A. Mo Mike said the trick still owed him money, but it's over with. She out of here.

Q. Who was he talking about?

A. Pico.

Q. Was there anything else that was said?

A. No. We just dropped it from there.

Q. Okay. Terrill, how have you been treated since you've been here at Area 1?

A. I been treated well.

Q. Have you had anything to eat?

A. Yes.

Q. Okay. Have you had anything to drink?

A. Yes.

Q. What did you have to drink?

A. Pepsi and a 7-Up, two 7-Ups.

Q. What have you had to eat?

*Terrill Swift*  
*Det. [Signature]*

A. A sandwich.

Q. Have you been allowed to go to the bathroom?

A. Yes.

Q. Terrill, have you been threatened today? Has anybody threatened you?

A. No.

Q. Has anybody promised to give you anything in exchange for what you are saying today?

A. No.

Q. Right now, are you under the influence of drugs or alcohol?

A. Smoked a little weed, marijuana.

Q. Right now, are you under the influence of drugs or alcohol?

A. No, no.

Q. I am going to ask the court reporter to type this up. After she types it up, you and I are going to read through it. Okay?

A. Yes.

Q. Then I am going to have you read some of the statement out loud. Okay?

A. Yes.

*Terrill Dwight King*  
*Det. [Signature]*

Q. At that time if there are any corrections or changes that you think we should make, we'll make them. Okay?

A. Okay, yes.

Q. After we make those changes, then I am going to ask you to sign it, I am going to sign it, and the detective is going to sign it. Okay?

A. Yes.

MR. JOHNSON: Let the record reflect it is now 3:20 a.m. on March 10th, 1995. This concludes the statement of Terrill Swift.

x Terrill Swift

WITNESSES TO SIGNATURE:

Terrill Swift  
Det. [Signature]

# **EXHIBIT C**

Vincent A

M 1 18 21 Feb

11-1-1989 0721

8-C.B. NO. 009

15. I.R. NO.

16. A.P. NO. 5356 S Bishop Hse.

17. DIST. RES. 009 5-6 120 Blk

18. SOCIAL SECURITY NO. Unk.

19. Y.O. NO.

20. STATE/PLACE OF BIRTH. IL.

21. DRIVERS LICENSE NO. None

22. RD NO. Y-524378

23. OCCUPATION. Student

24. BUSINESS NAME - ADDRESS. Tilden High School

25. ADDRESS OF ARREST. 5101 S Wentworth

**PSA**

26. NO. ARRESTED. 1

27. LOCATION CODE OF PREMISES. 330

28. BEAT OF ARREST. 232

29. DATE OF ARREST. 09 Mar 95 1010

30. ARRESTEE TRANSPORTED BY BEAT. 610 5112 10

31. RESTRICTED ARREST. YES  NO

32. WEAPON. PISTOL  REVOLVER  RIFLE  SHOTGUN  KNIFE  OTHER (SPECIFY) Dna

33. PROPERTY INVENTORY NO(S). Dna

34. FOR NARCOTIC ARREST. SUSPECT CANNABIS  SUSPECT CONTROLLED SUBSTANCE

35. VEHICLE OF ARRESTEE. YEAR MAKE MODEL BODY STYLE COLOP STATE LICENSE NO OR V.I.N. DISPOSITION OF VEHICLE

36. PERSON IN INVESTIGATIVE UNIT NOTIFIED. UNIT NOTIFIED. TIME. Detective Division Arrest

37. DOES ARRESTEE HAVE DEPENDENT CHILDREN AT HOME. YES  NO

38. NAME OF A.S.A. FEL. REV. JOHNSON

39. VICTIM COMPLAINT. NAME. Glover Nina

40. REFERENCES (CH. - PAR.)

41. OFFENSES

42. DISPOSITIONS

40. REFERENCES (CH. - PAR.)	41. OFFENSES	42. DISPOSITIONS
1 702ILCS5/9-1	1st Degree Murder	5
2		6
3		7
4		8

43. NARRATIVE (The facts for probable cause to arrest AND to substantiate the charges include, but are not limited to, the following):

The above subject was arrested for the murder of NINA GLOVER who's body was found on 7Nov94, at 1400 W. Garfield Blvd. The above was advised of his constitutional rights, and he stated that he understood each of his rights. The above admitted to committing an aggravated crim. assault against the victim, and he admitted killing the victim along with other individuals.

Assisting: Det. J. Cassidy#20207 Det. P. McCafferty#20014  
 Det. K. Boydreau#20435 Det. T. Coughlin#20983

I do solemnly, sincerely, and truly declare and affirm that the facts stated herein are accurate to the best of my knowledge.

FIRST ARRESTING APPEARING OFFICER'S SIGNATURE: [Signature]

STAR NO. 21008 UNIT 610

44. FIRST ARRESTING APPEARING OFFICER - PRINT NAME: Det. Frank Valadez

BEAT NO. 5134 FUPLO 4 D.O. GRP MISD ORD CAT KEY

45. SECOND ARRESTING OFFICER - PRINT NAME - STAR NO. UNIT: Det. Richard Paladino 20245 610

46. VEHICLE ASSIGNED: ONE TWO THREE

47. INITIAL APPROVAL OF PROBABLE CAUSE - SIG - STAR

48. RESULTS OF FINGERPR. CHECK - WAIVED BY SIG - STAR DATE

49. APPROVAL OF CHARGES - SIG - STAR DATE

50. ARRESTEE SEARCHED BY: STAR EMP. NO. UNIT

51. DATE RECEIVED - LOCKUP TIME

52. PERS. PROPERTY RECEIPT NO.

53. TELEPHONE NO. CALLED TIME

54. BOOKING OFFICER: STAR EMP. NO. UNIT

55. TIME FINGERPRINTED

56. TIME PHOTOGRAPHED

57. TIME FED

58. PLACE IN CELL NO.

COURT INFORMATION

59. ARR OFF DESIRED COURT DATE BRANCH-CAL.

60. COURT SGT TO HANDLE: YES  NO

61. INITIAL COURT DATE BRANCH-CAL.

62. FINAL CRT. DATE BRANCH-CAL.

63. BONDED - DATE TIME

64. BOND RECEIPT NO.

65. COURT DOCKET NO.

66. FINAL JUDGE'S NAME

# **EXHIBIT D**

