

IN THE CIRCUIT COURT FOR SHELBY COUNTY, TENNESSEE

FILED

GARY BRADFORD CONE, )  
 )  
 PETITIONER, )  
 )  
 v. )  
 )  
 STATE OF TENNESSEE, )  
 )  
 RESPONDENT. )

SEP 10 AM 10:31  
CLERK

No. P-06874 Chapman

AFFIDAVIT OF GARY BRADFORD CONE

COUNTY OF DAVIDSON  
STATE OF TENNESSEE

Comes now the affiant, Gary Bradford Cone and affirms under oath the following which is true to the best of my knowledge, information and belief:

1. My name is Gary Bradford Cone. I am over eighteen (18) years of age. I am the petitioner in *Gary Bradford Cone v. State of Tennessee*, No. P-06874, a Tennessee post-conviction proceeding now pending in the Circuit Court of Shelby County, Tennessee.

2. I have never received any formal legal training. During the course of all prior proceedings in this case, I have depended upon counsel to provide me all necessary advice concerning my representation and the proper manner for presenting my case. Since I was arrested, I have been continuously in custody. I have never received or had a copy of the trial transcript in this matter, including jury selection, the trial, and the sentencing proceeding.

3. I have reviewed the pertinent pleadings now before the Court, including Petitioner's "Second Amended Petition For Post-Conviction Relief," "Petitioner's Amendment to Petition For Post-Conviction Relief," "Petitioner's Reply To State's Response To Petition For Post-Conviction

Relief & Motion To Dismiss And Statement & Amendment Regarding Issue of Waiver," and "Amendment To Petition For Post-Conviction Relief and Memorandum Concerning Personal Nature of Waiver Under Tenn. Code Ann. § 40-30-112(B)."

4. I have reviewed paragraphs 16 and 39 of the "Second Amended Petition For Post-Conviction Relief," and pages 5 through 7 of "Petitioner's Reply To State's Response To Petition For Post-Conviction Relief & Motion To Dismiss and Statement & Amendment Regarding Issue Of Waiver." Those documents accurately state reasons why I have not waived any claims in this post-conviction action.

5. I have also reviewed all claims for relief presently contained in the pleadings, and hereby state the following concerning the waiver of those claims presently contained in the "Petitioner's Second Amended Petition For Post-Conviction Relief," and "Petitioner's Amendment To Petition For Post-Conviction Relief:"

¶ 15a. I did not know of the existence of such claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning my background and personal and medical history, nor did either trial or post-conviction counsel through full disclosure fully discuss the significance of such matters with me. Being incarcerated, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15b. I did not know of the existence of such claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal standards governing the ineffective assistance of counsel and the requirement that counsel fully investigate my case through requesting and obtaining adequate expert and investigative assistance. I did not know the significance of counsel's failure to request and obtain adequate expert and investigative assistance, nor did trial nor post-conviction counsel fully discuss the significance of such matters with me. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim earlier. I have never made a deliberate, considered, tactical choice not to present such claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present such claim earlier.

¶ 15c. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance, nor did either trial or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15d. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in challenging the elements of first-degree murder, nor did either trial or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15e. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to rebut the State's case, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier

proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15f. A version of this claim was presented in my first post-conviction petition. However, not all available facts were presented in support of this claim, including relevant expert testimony, documentary evidence, and other testimony of mitigation witnesses. I had no ability to present such evidence at earlier proceedings, including post-conviction proceedings. Being incarcerated and indigent, I had no ability to investigate or develop all facts or evidence relevant to such claim in prior proceedings. Had I known the additional facts underlying this claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I been able to investigate, present, and develop such evidence about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15g. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to present a coherent theory of defense, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the

record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15h. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in this matter, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15i-j. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to properly voir

dire the jurors, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15k-1.I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to exclude jurors, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier

proceedings.

¶ 15m. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in this matter, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15n. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in this matter, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier

proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly and understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15o. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in discussing this case with me, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15p. A version of this claim was raised in an earlier post-conviction petition. Please see my explanation concerning paragraph 36.

¶ 15q. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to object to the discriminatory use or peremptory challenges, nor did either trial or appellate or post-conviction

counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15r. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to object to the jury's instruction on malice, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15s. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to object to the jury's instruction on mitigating evidence, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15t. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to object to the misleading comments, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that

I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15u. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to object to the introduction of victim impact evidence, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15v. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to object to the limitation on consideration of mitigating evidence, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such

matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶15w. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to request lesser included offense instruction, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15x. I did not know of the existence of this claim in earlier proceedings,

including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to have the jury instructed on its failure to agree, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15y. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to request instructions on non-statutory mitigating circumstances, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so,

had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15z. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to raise claims earlier, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15aa. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in conceding robbery and murder in front of the jury, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the

record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15ab. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to properly investigate my background and to properly prepare experts who testified at trial, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15ac. I did not know of the existence of this claim in earlier proceedings,

including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in introducing extraneous act evidence at the guilt phase, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15ad. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in permitting the prosecution to introduce extraneous acts at the trial, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so,

had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15ae. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in dealing with the expert witnesses, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15af. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in his cross-examination of the State's experts, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the

record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15ag. A version of this claim was presented in my first post-conviction petition. However, not all available facts were presented in support of this claim, including relevant expert testimony, documentary evidence, and other testimony of mitigation witnesses. I had no ability to present such evidence at earlier proceedings, including post-conviction proceedings. Counsel also had no ability to do so. Being incarcerated and indigent, I had no ability to investigate or develop all facts or evidence relevant to such claim in prior proceedings. Had I known the additional facts underlying this claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I been able to investigate, present, and develop such evidence about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 15ah. A version of this claim was presented in my first post-conviction petition. However, not all available facts were presented in support of this claim, including relevant attorney expert testimony, documentary evidence, and other testimony of mitigation witnesses.

I had no ability to present such evidence at earlier proceedings, including post-conviction proceedings. Counsel had no ability to do so. Being incarcerated and indigent, I had no ability to investigate or develop all facts or evidence relevant to such claim in prior proceedings. Had I known the additional facts underlying this claim, the legal significance of such facts, and the governing law, I would have presented such facts and such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I been able to investigate, present, and develop such evidence about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings. failed to make any argument at sentencing phase

¶ 15ai. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning counsel's inadequate performance in failing to present relevant medical and psychiatric or other records, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently

or deliberately failed to present this claim in earlier proceedings.

¶ 16 This claim has only arisen because of counsel's earlier failings, and thus could not have been presented earlier. In addition, for any underlying claims that could have been raised in earlier post-conviction proceedings, I did not know the legal significance of any facts or legal significance of facts concerning counsel's earlier inadequate performance at trial or on appeal or in post-conviction, nor did post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of such claims. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present these claims earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present these claims in earlier proceedings.

¶ 17a-o. I did not know of the existence of these claims in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the judge's inaccurate instructions to the jury, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of these claims, discuss with me the jury instructions themselves, or discuss the possibility of raising such claims. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability

to investigate or develop facts relevant to these claims. I have never received a copy of the trial transcript or the jury instructions. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 18a-h. I did not know of the existence of these claims in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the judge's inaccurate instructions to the jury, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of these claims, discuss with me the jury instructions themselves, or discuss the possibility of raising such claims. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to these claims. I have never had a copy of the trial transcript or the jury instructions. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about these claims. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present these claims in earlier

proceedings.

¶19a-r. I did not know of the existence of these claims in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the judge's improper actions, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of these claims, discuss with me the jury instructions themselves, or discuss the possibility of raising such claims. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to these claims. Had I known the facts underlying such claims, the legal significance of such facts, and the governing law, I would have presented such claims in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about these claims. I have never made a deliberate, informed, considered, tactical choice not to present these claims earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present these claims in earlier proceedings.

¶20a-o. I did not know of the existence of these claims in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the unconstitutional aspects of the Tennessee death penalty scheme, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of these claims, discuss with me the jury instructions themselves, or discuss the possibility of raising such claims. Being incarcerated, indigent, and without the benefit of the record in this matter, I

also had no ability to investigate or develop facts relevant to these claims. Had I known the facts underlying such claims, the legal significance of such facts, and the governing law, I would have presented such claims in earlier proceedings. Had I understood that I needed to raise these claims in earlier proceedings, I would have done so, had I known about these claims. I have never made a deliberate, informed, considered, tactical choice not to present these claims earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present these claims in earlier proceedings.

¶ 21. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the jury's consideration of other punishments before the sentencing phase, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 22. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal

significance of any facts concerning the judge's failure to permit individual voir dire in this matter, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 23. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the prejudice arising from juror Strawn's remarks, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or

understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 24. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the suggestive photo line-ups which were used against me, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim, including viewing such exhibits. I have never seen the photographs. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 25. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the suggestive identification in the courtroom, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability

to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 26. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the extraneous influences on the jury, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 27. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal

significance of any facts concerning the search of the automobile, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 28. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the inflammatory influences on the jury, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier

proceedings.

¶ 29. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the use of statements against me, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented this claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 30. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the improper questioning of Officer Flynn, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such

claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 31. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the standard of proof for circumstantial evidence cases, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 32. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the improper consideration of non-statutory aggravating factors, nor did either trial or appellate or post-conviction counsel after full investigation and full

disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 33. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the improper use of invalid aggravating circumstances, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 34. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the State's unconstitutional argument, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 35. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning Ilene Blankman and the State's duty to provide exculpatory evidence, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim

in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 36. The aspect of this claim relating to the remarks about being a drug seller was raised in earlier proceedings. As to other aspects of this claim, I did not know of the existence of these allegations in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the State's unconstitutional arguments, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 41. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts nor the legal significance of any facts concerning the State's withholding of evidence, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the

significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Such facts have been revealed through disclosure of the State's files, which occurred after the first post-conviction proceeding. I have never seen those files. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 42. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or the legal significance of any facts concerning discrimination in selection of jury forepersons, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier

proceedings.

¶ 43. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the improper review on appeal, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 44. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know of such available documentary evidence nor the legal significance of counsel's failure to present this type of evidence, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have

presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 45. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the State's failure to provide exculpatory evidence, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 46. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the underlying facts nor the legal significance of any facts concerning the reading of the Bible, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the

significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim by speaking to jurors. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 47. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the legal significance of any facts concerning the inability to consult with counsel, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 48. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the underlying facts and/or the legal significance of any facts concerning the State's improper evaluations, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 49. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or the legal significance of any facts concerning the use of this aggravating factor, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier

proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 50. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or the legal significance of any facts concerning this unconstitutional aspect of the death penalty, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 51. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the invalidity of electrocution, nor did either trial or appellate or post-conviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent,

and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

¶ 52. I did not know of the existence of this claim in earlier proceedings, including post-conviction proceedings. During those proceedings, I did not know the facts or legal significance of any facts concerning the fact that counsel was deprived of the opportunity to investigate and fully present my case, nor did either trial or appellate or postconviction counsel after full investigation and full disclosure discuss the significance of such matters with me and the significance or viability of this claim. Being incarcerated, indigent, and without the benefit of the record in this matter, I also had no ability to investigate or develop facts relevant to such claim. Had I known the facts underlying such claim, the legal significance of such facts, and the governing law, I would have presented such claim in earlier proceedings. Had I understood that I needed to raise this claim in earlier proceedings, I would have done so, had I known about this claim. I have never made a deliberate, informed, considered, tactical choice not to present this claim earlier. I have not knowingly or understandingly or intelligently or deliberately failed to present this claim in earlier proceedings.

6. All statements contained in this affidavit are true to the best of my knowledge, information and belief.

7. Further affiant sayeth not.

Gary Bradford Cone  
Gary Bradford Cone

Subscribed and sworn before me this 7 day of  
December, 1993

Barbara S. Rosner  
Notary Public State of Tennessee  
My Commission Expires NOV. 20, 1996