



**MEMORANDUM**

**RE: PEOPLE V ALTON HUBBARD**

**CASE NO. 2004-010127-01**

**Procedural History**

- 2004-08-23 – Investigatory Arrest
- 2004-08-25 – Warrant Issued
- 2005-05-09 – Found guilty by jury
- 2005-05-24 – Sentenced
- 2005-06-10 – Claim of Appeal Filed
- 2007-02-27 – MCOA – Affirmed Conviction
- 2007-04-13 – MCOA Denied Motions for Reconsideration
- 2007-09-10 – MSC Denied Application for Leave to Appeal
- 2008-06-24 – Motion for Relief from Judgment
- 2008-12-11 – Motion for Relief from Judgment Denied

**New Evidence**

1. Misconduct of OIC Sgt. Wilson – Failure to disclose *Brady* impeachment evidence about himself being named as a defendant in multiple civil cases for police misconduct to prosecution and/or the defense at the time of trial for police misconduct.
  - a. **Cases before and after Alton's trial:**
    - i. *Edna Anderson v City of Detroit, et al*
      1. Case No. 2:91-cv-75329-LPZ
      2. Filed on 09/01/1992
      3. Disposition: Settled on 09/01/1992
        - a. **Never disclosed to prosecution**
    - ii. *James R. Powe v City of Detroit, et al*
      1. Case No. 2:92-cv-76976-AC
      2. Filed on 12/04/1992

3. Disposition: Settled on 10/27/1994
  - a. **Never disclosed to prosecution**
- iii. *Michael Varner and Carey Right v City of Detroit, et al*
  1. Case No. 2:99-cv-73704-DPH
  2. Filed on 07/28/1999
  3. Disposition: Settled on 10/31/2000
    - a. **Never disclosed to prosecution**
- iv. *Ronald Richardson, et al v City of Detroit, et al*
  1. Case No. 01-71428
  2. Upon information and belief, filed in 2001
  3. Disposition: Settled on or about 10/29/2022
    - a. **Never disclosed to prosecution**
- v. *Nathaneal Taylor v City of Detroit, et al*
  1. Case No. 2:03-cv-73595-PDB
  2. Filed on 09/18/2003
  3. Disposition: Settled on 11/21/2005
    - a. **Never disclosed to prosecution**
- vi. *Desmond Robinson v City of Detroit, et al*
  1. Case No. 2:04-cv-73203
  2. Filed on 08/19/2004
  3. Disposition: Settled on 01/09/2006
    - a. **Never disclosed to prosecution**
- vii. *Sidney Rhone v City of Detroit, et al*
  1. Case No. 4:13-cv-13400-TGB-DRG
  2. Filed on 08/08/2013
  3. Disposition: Dismissed on 10/25/2013
- viii. *Mubarez Ahmed v City of Detroit, et al*
  1. Case No. 2:18-cv-13849-GCS-EAS
  2. Filed on 12/12/2018
  3. Disposition: Open
  4. In *People v Mubarez Ahmed*, Wayne County Circuit Court Case No. 2001-003529-01-FC, Ahmed was recently **exonerated** after serving 18 years in prison when it was discovered Sgt. Wilson lied on the witness stand and fabricated evidence
- ix. *Tiani Dodson v City of Detroit, et al*
  1. Case No. 2:20-cv-12056-GAD-APP
  2. Filed on 07/30/2020
  3. Disposition: Open
- x. *Cotton and Legion v Hughes, Bats, Wilson, and Adams*
  1. Case No. 22-cv-10037
  2. Filed on 01/06/22
  3. Disposition: Open

- b. Lied under oath in a preliminary examination hearing, stating Alton was arrested on 08/23/2004 for an outstanding traffic warrant when no warrant for a traffic offense existed.
  - c. Failed to disclose *Brady* evidence to the prosecution about another potential suspect. This information was never disclosed/provided to the defense, as it is only contained in the DPD file.
2. Misconduct of Ofc. Williams for false arrest.
3. A document contained in the DPD file shows that on August 22, 2004, a caller whose name is redacted in my version contacted Sgt. Higgins and informed him about another possible suspect, Kenny Palmore. The note indicates that Kenny Palmore was bragging about the murders the day after it happened. Palmore told him that “Snoop” or “Plum” killed Rivers because she owed Palmore money. The caller said she would call back with the address for Palmore. This document is not contained in the prosecutor’s file and was not turned over to the defense.

## **MISCONDUCT FOUND ABOUT SGT. ERNEST WILSON**

### ***Police Misconduct***

#### ***Ronald Richardson, et al v City of Detroit, et al, Case No. 01-71428, United States District Court for the Eastern District of Michigan***

Established that the homicide section of the DPD has had a policy and practice to transport witnesses against their will to Detroit Police Headquarters located at 1300 Beaubien to obtain statements from said witnesses. Further, it has been a policy and practice of Detroit Police to detain and/or lock up said witnesses until they agree to give a statement even though they were aware they did not possess probable cause to believe that the witnesses have committed a crime.

### ***Dishonesty, Excessive Force, False Reports***

03/29/00 – Nathaneal Taylor was the subject of a warrantless entry and search of his home followed by a brutal five-hour interrogation in which Wilson threatened Taylor with his gun, punched Taylor in the stomach with the butt of his gun, swung his fist at Taylor (who was cuffed to the table), then uncuffed Taylor and threw him against the wall. Sgt. Wilson, in part, obtained statements against Taylor from two jailhouse informants despite their changing and inaccurate stories. Sgt. Wilson later denied knowing about these statements; the case resulted in a not guilty verdict and an apparently settled lawsuit.

02/09/01 – Mubarez Ahmed was convicted of a murder committed on this date. 17 years later, evidence shows that Sgt. Wilson manipulated the lineup identification of Ahmed and suppressed photographic evidence, which resulted in Ahmed’s conviction being vacated.

05/12/02 – Desmond Robinson was held for four months while Sgt. Wilson tried unsuccessfully to prosecute him for murder despite witness statements and evidence clearly demonstrating his innocence. An independent witness who saw the murder from his car and said the killer wore a hood later identified as Desmond in what may have been a tainted lineup, “based on the color and shape of his head.” The facts suggest officers mistook Desmond for Lamar Robinson and should have known that. A witness testified at the preliminary examination that she had never seen Desmond prior to the police showing her a photograph of him.

### **MISCONDUCT FOUND ABOUT OFFICER EDWARD WILLIAMS**

#### **False Arrest – *Berry, et al v City of Detroit, et al*, Case No. 5:01-cv-60089-MOB**

The plaintiffs maintained that the officers did not have probable cause for the arrests. Rather, plaintiffs were able to establish that the police were effectuating investigatory arrests and detentions of witnesses pursuant to the longstanding practice and policy of suspicion less arrests by the Homicide Division of the DPD. The matter resulted in a consent judgment in favor of the plaintiffs.

**Detroit Police Department File Summary**

**List of DPD File Contents:**

1. Detroit Police Department Offense/ Incident report
2. Trial Notification re Labs, Ballistics, and 911 Call
3. Alton Hubbard: Detects Arrest Search Document
4. Homicide File Database Tracking Sheet
5. Handwritten Homicide case note signed by C. Roxton.
6. Crime Stoppers Alliance Fax re Anonymous Tip – Redacted
7. Alton Hubbard Arraignment on Warrant Form
8. Investigator's Report and Request for Warrant
9. Daily Case Ledger Dated August 19, 2004
10. Evidence Property List
11. Gun Shot Residue Test Information Sheet re Tony Johnson
12. Constance Davenport Witness Statement – 8-24-04 at 6:05 PM
13. Photo Line-Up – Neither Constance Davenport nor Tony Johnson Identified Alton
14. Preliminary Complaint Record re Tony Johnson
15. DPD Crime Report – 8/20/2004 re Curtis Jackson James.
16. DPD Crime Report – 8/23/2004 re Gage Riding a Red Mountain Bicycle.
17. Preliminary Complaint Record Notation re Tabatha Turner and Constance Davenport
18. DPD Arrest Report re Idolthus Hubbard – 8/23/2004 at 5:00 PM
19. Mugshots
20. Preliminary Complaint Record re Alton Hubbard – 8/23/2004 at 7:00 PM
21. Wayne County Medical Examiner Report re Frank Olson
22. Hubbard Arrest Search – Redacted
23. Preliminary Complaint Record indicating that officer observed a black male in all white dress clothes holding door open at 4139 Canton, then observed another black male with a white shirt on and a baseball cap leaving the front porch and entering into a green neon.
24. Tony Johnson Witness Statement – 8-19-04 @ 3:30 AM
25. Constance Davenport Witness Statement – 8-23-04 at 12:00 PM
26. Constance Davenport Witness Statement – 8-22-04 at 3:10 PM
27. Andrew Farmer Witness Statement
28. Chloe Colts Witness Statement
29. Tabatha Turner (sp?) Witness Statement
30. Louise Rice Witness Statement
31. DPD Case Draft
32. Wayne County Prosecutor's Witness List
33. Handwritten Notes/Drawing
34. Wayne County Medical Examiner Case Registration Summary
35. DPD Case Draft Revised- Annie Rivers Complainant
36. DPD Criminal Record Annie Rivers
37. Idolthus Hubbard Constitutional Rights Form – Signed 8/24/04 at 1:00 AM
38. Idolthus Hubbard Second Witness Statement – 8-24-04 at 1:15 AM

39. Idolthus Hubbard Constitutional Rights Form – Signed 8/23/04 at 9:10 PM
40. Idolthus Hubbard First Witness Statement – 8-23-04 at 9:25 PM
41. Alton Hubbard Constitutional Rights Form – Signed 8-24-04 at 12:15 AM
42. Alton Hubbard Witness Statement – 8-24-04 at 12:45 AM
43. Alton Hubbard Mugshots
44. Alton Hubbard Arrest Search
45. Crime Scene Photos
46. Sgt. Higgins Notation about Another Suspect – Kenny Palmore
47. Gunshot Residue Test
48. Ballistics Report
49. Evidence Technician Report Re Fingerprints on Bicycle

**Overall:**

The DPD file does not demonstrate there were any attempts to obtain DNA evidence from Mr. Hubbard, his brother, or Mr. Jones. Fingerprints are not located in the home or on any of the evidence in the home. The purported shotgun or 38 revolvers were not recovered. Neither Constance Davenport nor Tony Johnson identified Mr. Hubbard in the live lineup or photo array.

The 9 mm that was recovered did not match with the bullets retrieved from Rivers or Olson. There was a gunshot residue test performed on witness, Tony Johnson, which was positive on all four samplings. There is a report in the DPD file that is not in the prosecutor's file and Mr. Hubbard maintains that it was never turned over to him, as it indicates another possible suspect, Kenny Palmore. The witness statements are the most critical; and Mr. Hubbard's statement is written by Sgt. Wilson except for the last answer.

## **SUMMARY OF FACTS AND INVESTIGATION**

This case arises from a triple homicide that occurred in the evening of August 18, 2004, at 4139 Canton Street, which was a well-known drug house on Detroit's east side. The shootings resulted in the deaths of Annie Rivers, Jerome Edmonds, and Frank Olson. Edmonds and Rivers were found dead inside the house and Olson was found alive in front of the house but was pronounced dead on arrival after being transported from the scene to St. John's Hospital.

At the time of this incident, Sgt. Wilson worked Homicide and was assigned to the Redrum Task Force, Squad 6. Initially, Detroit police officer Ryan Hopp (PO Hopp) responded to a police run of shots fired. Officer Hopp drove by the house and observed a black male in all white dress clothes running out of the front door of the location and observed another black male standing at the front door, holding the door open. PO Hopp drove back around the block and drove by the house again and observed another black male, mid-20's, white t-shirt with a heavy-stocky build with a baseball cap on with possible braids, walk off from the porch and enter a green neon vehicle with a partial plate of WFD. PO Hopp gave the description of the individual wearing all white over the radio.

Other Detroit police officers responded to the scene at approximately 10:20 p.m. Police Officer Ryan Lovier (PO Lovier) spoke and interviewed one of the surviving witnesses, Tony Johnson (Johnson). Johnson told Officer Lovier he was inside the residence with several other people, including someone named "Gage," who was a black male, mid-20's, with braids in his hair, stocky build, wearing a white wife beater tank top and long blue or black shorts. Johnson said he was in the kitchen when he heard someone come into the house and assumed it was someone to pick up Gage. Johnson was transported downtown to Homicide to be questioned at 11:00 p.m.

On August 19, 2004, Johnson was interviewed by Detroit police officer Olie McMillian (PO McMillian) and his witness statement indicated in relevant part that "Gage and his cousin" entered the house. According to Sgt. Wilson's Progress Notes, PO McMillian stated that the story told by Johnson, included a black female by the name of Connie who was in the house during the time of the shooting. On August 19, 2004, at 1:40 a.m. Officer Edward Williams (Ofc. Williams) interviewed an unknown person who identified an alleged suspect by the name of "Gant." 20 minutes later, Sgt. Wilson confirmed that there was a female by the name of Constance Davenport (Davenport) who was with Johnson when he was detained.

On August 21, 2004, at 1:00 p.m., Sgt. Wilson noted he was notified by Homicide Desk that two witnesses walked into the Ninth Precinct and stated they knew what took place and knew the shooter. Sgt. Wilson contacted Ofc. Williams to "take care of the information." Investigator William Gail (Investigator Gail) took their statements. The two witnesses were later identified as Davenport and Tabatha Turner (Turner). They provided Investigator Gail with the addresses of the shooter's mother and where the girlfriend of the shooter lived, 13400 Wilfred, in Detroit, Michigan. On August 22, 2004, at 9:00 a.m., the case was reviewed, and the addresses given by Davenport and Turner were done in the Case Trax system, and no subjects were pulled out of the system.

On August 23, 2004, at 10:00 a.m., Davenport and Tony Johnson went to Homicide and viewed mug shots. Neither Davenport nor Tony Johnson could identify the perpetrators. At 2:30 p.m., Sgt. Kinney recovered a bicycle, which the subject Gage was seen riding in the area.

At 12:00 p.m., Sgt. Wilson interviewed Davenport, who stated, "I only know him as being the brother of Gage. I don't know his nis name nor do I know anything about Gage." At 5:00 p.m., Sgt. Wilson made the location of 13400 Wilfred and noticed a large black male in the backseat of a vehicle that pulled up to that location, fitting the description of Gage, later identified as Idolthus Hubbard. He was arrested and transported to the Ninth Precinct.

At 7:00 p.m., Sgt. Drew arrested Alton at his sister's residence, 5953 Iroquois, in Detroit, Michigan. According to a Preliminary Complaint Record, Sgt. Drew had "information that the above-subject was one of the perps . . . set up surveillance and observed [Alton] and arrested him without incident." There is **no evidence** in the prosecutor's file nor the Detroit Police Department's file that reflects Sgt. Drew or anyone else having information identifying Alton as one of the perpetrators at the time Alton's unlawful arrest was made.

At 7:30 p.m., Sgt. Wilson interviewed one of Alton's sisters, Arkasha Howard (Howard) at 7:30 p.m. Sgt. Wilson asked Howard if she had any other brothers besides Idolthus Hubbard, and she responded with, "Alton." At this point, however, Alton had already been arrested by Sgt. Drew and in the custody of the Detroit Police. At 9:15 p.m., Sgt. Wilson conducted two live lineups of Alton Hubbard. Neither Johnson nor Davenport was able to identify Alton. Despite not being identified in the lineup, **Alton was not free to leave and was transported back to the Seventh Precinct.** While it is omitted from Sgt. Wilson's Investigator's Report, Sgt. Wilson later testified under oath at a *Walker* hearing, stating that Alton told the "doorman" at the precinct he wanted to speak with Sgt. Wilson, which ultimately led to Alton's coerced confession. There was no information provided regarding who the doorman was, and the doorman was never formally identified.

At 10:00 p.m., PO Williams informed Sgt. Wilson that Idolthus purportedly confessed and stated Alton and himself were at the location of the shooting. Idolthus stated he shot Rivers and stated Alton was the shooter of Edwards and Olson. And then on August 24, 2004, at 12:45 a.m., Sgt. Wilson interviewed Alton, in which Alton purportedly gave a complete, full statement implicating himself and Idolthus in the shooting on Canton. Based on the Investigator's Report, Assistant Prosecuting Attorney Donaldson signed the warrant, and the warrant was issued by Magistrate Baylor.

### TRANSCRIPT SUMMARY

**Preliminary Examination (October 5, 2004) – Mr. Hubbard was represented by Wyatt Harris.**

#### **1. *Constance Davenport***

She testified that she was at the residence located at 4139 Canton in Detroit, on August 18, 2004, when three people were shot to death. This occurred at her boyfriend's residence. She



identified Alton and his brother, Idolthus, in the courtroom. She heard four gunshots being fired from two different locations within the house at the same time: two from the kitchen and two from the dining room. Constance testified that she saw Idolthus and Alton shoot at the bedroom door. Afterwards, both of them left and took off running.

Constance admitted that she could not identify anyone at the lineup on August 23, 2004, at 10:25 pm. Police also previously asked her if she could identify anyone, in which she stated that she could not on August 18, 2004.

However, Constance wrote a statement to the police on August 22, 2004, and August 23, 2004. Constance asked to be excused because she did not want to be there. (PE Transcript, p 19). Constance stated that while the shooting was occurring, she did not see Idolthus or Alton searching the house for anything or making any demands of anybody. Constance had difficulty identifying between the two brothers which one ultimately had the gun.

## **2. *Tony Johnson (Constance Davenport's Boyfriend)***

Tony Johnson identified Idolthus Hubbard as the individual who was present at 4139 Canton in Detroit, MI on August 18, 2004, when three people were shot to death. ***Tony Johnson never identified Alton.*** Tony also identified a dark skin man with a baldhead, Johnnie Jones, in a series of photographs, as the individual who was with Idolthus in the residence. There was a warrant out for his arrest.

## **3. *Officer Edward Williams (Idolthus' Arresting Officer)***

## **4. *Sgt. Ernest Wilson (Alton's Arresting Officer)***

Alton spoke with Sgt. Wilson for nearly 45 minutes prior to Sgt. Wilson writing his statement. Sgt. Wilson claims Alton made a statement while they were in the garage at the 7<sup>th</sup> Precinct, as they were all taking a smoke break.

## ***Evidentiary Hearing (March 1, 2005)***

Alton was then represented by court-appointed counsel, Susan F. Reed, who is now disbarred from the practice of law since 2019. The *Walker* hearing came down to a credibility contest between Alton, Sgt. Wilson, and Ofc. Williams.

Ofc. Williams admitted that he ran into Alton and Sgt. Wilson in the garage area at the 7<sup>th</sup> Precinct and observed them smoking cigarettes. He believed he observed Alton in handcuffs in the garage. Ofc. Williams also testified that the lineup may have been done the following day or the day after that and did not believe the lineup was conducted the same evening Alton was arrested. Ofc. Williams denied slapping, choking, or hitting Alton.

Sgt. Wilson testified that he initially made contact with Alton on August 23, 2004, at approximately 11:30 p.m. According to Sgt. Wilson, Alton requested a cigarette break when he signed his Constitutional Rights form. There was a place arranged by the Sgt. at the 7<sup>th</sup> Precinct

where a person could go and smoke. Sgt. Wilson said that Alton was handcuffed to the handcuffs in the front. Sgt. Wilson testified that there wasn't any physical altercation or physical touching between him and Alton. Alton signed a Constitutional Rights form on August 24, 2023, at 12:15 a.m.

Alton testified that at the time he was arrested he had been drinking – Hennessey and Miller beer three to four hours prior to police arriving. Alton and his friend shared two pints and he had a single beer. Alton also took Ecstasy 45 minutes prior to the police arriving. Alton had gone to the 9<sup>th</sup> precinct because his brother got arrested. Alton spoke with someone at the front desk who advised him that his brother was being processed and waiting to be taken by detectives. Alton was permitted to leave the 9<sup>th</sup> precinct and he went to his sister's house and law enforcement was there. Law enforcement approached the vehicle, had guns drawn, and ordered Alton out of the vehicle. The officers advised Alton they were with homicide, and he needed to go with them for questioning. Alton was handcuffed and a squad car took him to the 7<sup>th</sup> precinct.

When Alton arrived at the 7<sup>th</sup> precinct, he was fingerprinted and held in a cell until homicide arrived. He was then transported to the 9<sup>th</sup> precinct for a lineup. Alton inquired whether he could leave because no one picked him out of the lineup. However, Sgt. Wilson explained to Alton that he was picked out of the lineup and was taken back to the 7<sup>th</sup> precinct for interrogation on the murder. Alton maintains that Sgt. Wilson questioned Alton before reading his Miranda rights and despite requesting an attorney; specifically, the attorney who was present during the lineup. Sgt. Wilson did not terminate the interrogation and refused to provide Alton with an attorney.

Alton repeatedly told Sgt. Wilson that he did not have any information about the murders for approximately 45 minutes. Sgt. Wilson then left the room, returned, and took Alton into an area in the garage where Ofc. Williams was waiting. While in the garage area, Alton testified that Ofc. Williams punched him in his chest area several times and proceeded to choke him after Alton expressed harsh words to him. That is when Alton agreed to do whatever the officers wanted him to do. Alton maintains Sgt. Wilson wrote the statement in the garage area/breezeway, and Alton signed the statement but never read it.

At the trial court level, Alton argued his statement was the product of abusive and coercive police misconduct. The trial court concluded that Alton's statement was voluntary, knowing, and intelligently given and denied his motion to suppress. Alton raised this issue on appeal. The Court of Appeals found this issue to be a credibility contest between Alton and the police witnesses. The Court of Appeals gave special deference to the trial court's ability to assess the demeanor and credibility of the witnesses at a *Walker* hearing. At the time, the trial court ultimately determined that Alton's testimony lacked credibility and had no reason to question the credibility of Sgt. Wilson or Ofc. Williams. **This is no longer the case.**

## **TRIAL DAY 1 – April 20, 2005**

### ***Ronald Hopp – Detroit Police Officer***

Ofc. Hopp testified that 4139 Canton was known as a possible narcotics location. On August 18, 2004, at around 10:11 PM there was a run to that location for shots fired and he responded to the location, as he was a block away. He made the location in less than 30 seconds. When him and his partner drove by the first time, he observed a black male dressed in all white run out the front door, and also another black male holding the front door open locking outside. He continued to drive by and circled around. When he came back the second time, he observed another black male coming from the front porch walking to a vehicle and get inside. Ofc. Hopp drove down the street again, turned around and observed EMS pulling up to the location. Ofc. Hopp then pulled up behind the EMS truck when he observed a gentleman laying on the sidewalk. Ofc. Hopp observed him to have bullet holes in his chest area and stomach. Ofc. Hopp attempted to speak to him but was unable to answer any other questions other than him admitting to being shot inside the house.

Ofc. Hopp entered the residence and observed an older black female and an older black gentleman laying on the floor in the kitchen area in a pool of blood. Ofc. Hopp held the scene until homicide arrived and the investigation was turned over to homicide.

### ***Larry Zaffuto – Detroit Police Officer***

Ofc. Zaffuto responded to the call at 4139 Canton about a shooting. He was in a semi-marked car, plain clothes. He was not the first to arrive on scene as other vehicles were present. He and his partner received information about an individual seen coming out of that location, received a description, and searched the area. He received height, weight, and that he was wearing a white shirt and white shorts. They located that individual at the corner of Stuart and Concord, which was around the corner from 4139 Canton. They identified him as Tony Johnson. No weapons were found on Mr. Johnson. Mr. Johnson appeared calm and did not indicate that anyone was shooting at him or that he heard gunshots.

### ***Derald Penn – Detroit Police Officer***

Ofc. Penn was also a police officer that responded to the call at 4139 Canton. Ofc. Penn went into the home and held the scene for other officers and evidence technicians to arrive.

### ***Tony Johnson – Witness***

On August 18, 2004, he was at the 4139 Canton house. He was there when the shooting happened and had been there that day for about 6 to 8 hours. He knew the individual referred to as Gage and identified Alton's brother in the courtroom. He knew Idolthus for about a week and saw him during the daytime hours at the house. An hour before the shooting, Idolthus was trying to get a ride. He never saw Idolthus sell or use narcotics at the house. There were two other people at the house with Idolthus when he was trying to get a ride, Arthur and Red. Johnson said that at some point, someone came and picked up Idolthus and he left the location, and then someone else came to the residence looking for Idolthus. He then identified Johnnie Jones in the

courtroom as the person who came to look for Idolthus. He said Jones drove up to the house in a blue truck and there was no one else with Jones.

After a couple of hours, Idolthus returns to the residence, he comes through the front door, and claims Idolthus said that he was going to get a shotgun. He also saw Jones walk in behind Idolthus. He heard Jones say, "let's get the gun, let's go." As they came back downstairs, he heard a gun being racked. He got down to the floor and protected himself and went into a front bedroom with Arthur and Red. He barricaded the door. He heard at least 8 gunshots. And that people were trying to get into the room he was in. He heard kicking. No one in the bedroom was injured. After the shooting stopped, he went out the bedroom and ran to get out of the house. He testified that he told Sgt. Lovier what happened inside the house and that he was inside when the shooting happened. He testified that he was in the bedroom at all times, until it was over.

Tony was taken to a lineup and was unable to identify anyone in that lineup. He was then shown a photographic lineup, where he picked out photograph 4, which was Jones. Tony said that he did not know Alton and did not recognize Alton from the photographs.

Tony admits that there were 20 minutes unaccounted for from the time he left the residence at Canton until when he was stopped by police. He said he went to a gas station at Gratiot and Concord to get cigarettes. He was there for approximately 10 minutes before walking back down Gratiot and Concord to get to Concord and Stuart. He never put in his statement that he went to the gas station. He claimed while at the gas station he told a Chaldean person to call 911.

## **TRIAL DAY 2 – April 21, 2005**

### ***Tony Johnson – Continued - Witness***

When he was taken to 1300 Beaubien, a gunshot residue test was done where they took sample from his left hand. He was advised that the results came back positive. He explained it was positive because he opened the door and went out while smoke was still in the air.

### ***Ryan Lovier – Detroit Police Officer***

He responded to the scene and identified Tony Johnson. He prepared a PCR about what Mr. Johnson told him. Ofc. Lovier said that Johnson told him he was in the house during the shooting, and described Gage as having been in the house during the shooting and provided a description of Gage. Ofc. Lovier said that Johnson told him he heard gunshots inside the house. Contrary to what he testified to earlier, his statement indicated that Johnson said he heard the shots and then ran into the basement and was in the basement while the shooting was going on. Ofc. Lovier said that Johnson did not tell him he was in the front bedroom. Ofc. Lovier did not ask Johnson to account for the time he left the location on Canton to the time police stopped him and did not ask him where he went or what he was doing. Ofc. Lovier also stated that Johnson never mentioned that he went to a gas station or told someone to call 911.

***Olie McMillian – Detroit Police Officer – Homicide Unit***

He was involved in investigating the triple homicide of Rivers, Olson, and Edmonds. He testified that Alton was arrested on August 23, 2004, at 7:00 p.m. at 5953 Iroquois. Sgt. Drew of Michigan State Police, and Ofc. Williams were involved in Alton's arrest. He identified Alton in the courtroom.

Ofc. McMillian testified that Alton was taken to the 7<sup>th</sup> precinct, and at around 10:30 PM, him and Sgt. Wilson were involved in conducting a lineup in connection with Alton. He took the witnesses into the area where the lineup was at. Sgt. Wilson ran the lineup because it was his case. Two witnesses viewed the lineup where Alton was placed. Constance Davenport was one of the witnesses and she made no identification. Tony Johnson was the other witness, and he made no identification of anyone in the lineup either. Ofc. McMillian testified that a lawyer was present during the lineup.

Ofc. McMillian took a statement from Johnson on 8/19 at 3:30 AM at 1300 Beaubien and asked him about the shooting on Canton. Johnson told him that he knew someone by the name of Gage who went upstairs and got a shotgun from the upstairs location. Johnson claims that they kicked in the bedroom door and he was blocking the door in part with his feet, leaning on the bed. Johnson then provided a description of Gage. He claimed that Arthur and Red who were in the bedroom were homeless.

Ofc. McMillian explained that gunshot residue tests involve samples taken from the forehead, clothing, hands, and face area with equipment that evidence technicians have to see if someone has been in the area or possibly may have fired the gun. He did not attempt to interview or re-interrogate Johnson because he did not know the results of the gunshot residue test until he appeared for trial.

**TRIAL DAY 3 – April 25, 2005**

***Constance Davenport – Witness***

She frequented the Canton house and was there on August 18, 2004. She knows Johnson and recalls seeing him at the house on that day. She also remembered seeing Red and Arthur at the house. She didn't recall what time she had entered the house, but she had seen the front door open and the front gate and heard shooting. It was unusual for her for the door and gate to be open.

She entered through the front door and heard shooting coming from the kitchen. She ran further into the house and ran to the side of the love seat and went behind it. She is hiding on the side of it originally and then moved to the back of the couch, so she is between the couch and the wall, laying on the floor. She heard four shots from the kitchen area and two shots from the dining room area. As she heard the shots, she did not see anyone in the house. She recalled seeing people run past her and go inside the front bedroom, Red and Johnson. They ran from the dining room.

She saw two other people come out of the dining room and were walking backwards, armed with guns, one long and one handgun. She said they then started shooting at the bedroom door when she peaked her head up from behind the sofa. She remained behind the sofa until the shooting stopped and the shooters left the location. She then left the house. Her, Red, and Arthur left together, and Johnson was the last one to leave. She went around the corner to a friend's house by the name of Ann. She didn't ask Ann to call 911 and she didn't either. She later met up with Johnson when the police stopped her and questioned her. She told the police she didn't know anything, which she admitted was a lie.

On August 22, 2004, she went to the 9<sup>th</sup> precinct to provide a statement about what happened at 3:10 PM. She made a statement in her own handwriting and told the officers about what happened at Canton. She told the police that she walked in on a shooting, froze at the front door, and then ducked behind the couch in the living room, and that she saw two people shooting. After she gave her statement, she was then interviewed by Sgt. Wilson, and provided a 4-page statement to Sgt. Wilson. She wrote that she didn't know Gage, the person as Gage's brother, and only know him as Gage. She identified Alton again the courtroom as the individual who did the shooting and Idolthus as the other people who was present during the shooting.

She said that she did not write out Gage's name in her statement and did not write down Gage's brother. She said the police did not ask her the names of the men she saw on Canton. She went back to Sgt. Wilson and told him that she recognized a man from the photo line up as the man kicking and shooting into the bedroom, she picked someone else other than Alton, claiming that his photograph was not on there. And said the shooters that she saw in the house on Canton were not in the live lineup. Moreover, her statement to police indicated one black male with two guns. She then pointed to Johnnie Jones as the person she saw who did the shooting in the living room. And then said she saw Alton and Idolthus in the dining room. She confirmed that Alton wasn't in the lineup.

In her first statement police, she never mentioned anyone by the name of Gage and maintained that she did not ever mention Gage or Gage's brother in her subsequent statement. She claimed the police officer wrote down something she didn't say. She said the police officers filled in their names and told her the names. It was also the police who said about who was doing the shooting and who had the guns because she didn't really know. She stated that Mr. Jones was the one who did the shooting inside of the living room, and that Mr. Jones had two guns: a long gun and a short handgun.

She now claimed that she saw all three individuals in the house at the time of the shootings: Alton, Idolthus, and Jones. During the lunch break she decided that there were three people in the house shooting and prior to the lunch break, she thought it was just two people in the house.

### ***Lori Briggs – Detroit Police Officer – Evidence Tech Unit***

She arrived on scene at approximately 12:15 AM on August 19<sup>th</sup>. She was led to a baseball cap and a crack pipe laying on the sidewalk, and then she entered the house on Canton. She observed a bit of blood by the baseball cap. She also observed shell casings in front of the house. There was also a shotgun shell on the floor near the south wall in the living room. She did not observe

any other spent shell casings in the house. Outside the house, she observed a shotgun shell and a live shotgun round close to one another at the south side of the house, between some bushes underneath a large tree. She also located two other crack pipes inside the house as they were in a female complainant's pocket.

Briggs did not recover any casings from regular guns. There were some bullet holes in the front bedroom door, but it could not be determined if they were related to the homicide because there was no debris on the ground. If there is fresh damage to a wall or a door from a suspected bullet hole, there would be pieces of wood or particles on the ground from where the hole penetrated, and there was none. Briggs also did not recover any casings in the front bedroom. There was nothing to indicate that a bullet had been fired in there and/or hit a wall. Briggs also did not see anything that would indicate a bullet had come through any part of the glass window.

#### **TRIAL DAY 4 – April 26, 2005**

##### ***Lori Briggs – Detroit Police Officer – Evidence Tech Unit – Continued***

On redirect, Briggs clarified that the photograph about the room and her testimony was about the upstairs bedroom, not the front bedroom downstairs. As an evidence technician, she is instructed by the OIC at the scene as where the scene is, where they found some evidence, where that evidence is, and can look themselves but generally instructed. She testified that Sgt. Wilson never instructed her or directed her into the front bedroom to look for any type of evidence.

##### ***Carl Schmidt – Wayne County Medical Examiner***

He performed an autopsy on two of the victims: Rivers and Edmonds. Edmonds has a single contact shotgun wound to the chest and manner of death was homicide. The shotgun was pressed against his chest when it was fired. Edmonds had cocaine and its breakdown product present in his blood. Edmonds had used cocaine within two or three hours before death occurred. He opined that Edmonds was more likely shot while he was sitting or lying down.

With respect to Rivers, her cause of death was multiple gunshot wounds, and the manner of death was homicide. Rivers had three gunshot wounds. She had a gunshot wound to her right arm, a gunshot wound to her right wrist, and a gunshot wound to the top of the left shoulder, which entered the chest cavity and perforated her left lung. He opined that it was more than likely Rivers was shot while she was seated because the wound on the top of the left shoulder came from above. There was no evidence of any close-range firing. Rivers also had cocaine and its break down products in her blood, suggesting she used cocaine two or three hours prior to her death.

Although a different examiner performed the autopsy on Olson, Schmidt testified as to the report. Olson's cause of death was due to multiple gun shot wounds and the manner of death was homicide. 5 gunshot wounds were found. One was to the right side of his chest. Another was to the right side of his abdomen. Another was on the inner aspect of his right thigh. The fourth gunshot wound was a through-and-through wound of the left thigh, and the final wound was a through-and-through wound to the right leg, below the knee. There was no evidence of any

close-range firing. There was cocaine and its break-down products in his blood, suggesting he ingested cocaine two to three hours prior to his death.

***William Steiner – Crime Lab - Forensic Chemist***

He worked in the Trace Evidence Unit for the Detroit Crime Lab. He received four samplings that were labeled as coming from the right web and left right of Mr. Johnson. There was also a sample of his forehead and face, and a shirt. At the time a shot is fired there is a vapor cloud produced of all these combustion by-products that will surround the weapon and anything in the immediate vicinity out of a couple of feet in all directions. The chemical vapor will condense on anything and will be detectable for a few hours after a shooting.

He determined there was gunshot residue present on all four of the samples from Mr. Johnson. On the right web sample, there was one particle that had all of the necessary elements. On the left web sample, there was one particle that had all of the necessary elements. On the face sample, there was one particle that had all three elements, and the shirt sample had two particles with all necessary elements. There are three conclusions that could be drawn: (1) the person has fired a gun, (2) the person has been in close proximity to somebody else who fired a gun; and (3) they handled a gun or some other object that for some reason had residue on it and there transfer from the object to the person. He further stated it could be possible for gunshot residue to be transferred onto an individual walking through an area where a gun was just fired.

***Frank Horan – Detroit Police Officer – Evidence Tech Unit***

He photographed the scene as requested by Sgt. Wilson. He was also asked to photograph the entire house, including the upstairs. He did not locate any evidence anywhere else other than kitchen area and spent shotgun shell in the living room. He was directed by homicide about what to photograph. He did not see any spent bullets in the house. He further stated that there appeared to be hole in the front bedroom door but they appeared to be old damage because there was no wood chips or anything below the door indicating that anything had happened.

**TRIAL DAY 5 – April 27, 2005**

***Ofc. Edward Williams – Detroit Police Officer***

He was involved in the arrest of Alton Hubbard. He identified him in the courtroom. He was also involved in the arrest of Alton's brother. He interviewed Idolthus and purportedly occurred after Alton was taken into custody. The first time he spoke with Idolthus was around 9:10 PM on August 23, 2004. After he interviewed Idolthus, he went to see Alton at the 7<sup>th</sup> precinct with Sgt. Wilson. He saw Alton in the lockup area in the witness rooms. He also recalled seeing Alton in the storage area, a breezeway between the garage and the precinct itself. While he was present with Alton, so was Sgt. Wilson.

Ofc. Williams spoke with Alton about his brother's statement. The conversation he had with Alton occurred in the breezeway area, and then he left the 7<sup>th</sup> precinct, and returned to the 9<sup>th</sup> precinct to re-interview Idolthus based on the information Alton provided him.



***Sgt. Ernest Wilson - OIC***

He was the officer in charge of the case. In connection with the shooting, he learned of it on the evening of August 18, 2004, while he was at home and assembled his crew to make the scene. He directed the investigation.

Sgt. Wilson stated that based on his investigation and interviews, he learned that Idolthus had a brother or two, and then Idolthus made a comment at the time of his arrest stating that he may be looking for his brother, Alton.

Sgt. Wilson claimed that after the lineup, he transported the witnesses back to their home when he received information from the doorman at the 7<sup>th</sup> precinct that Alton wanted to speak with him. He arrived at the 7<sup>th</sup> precinct at around midnight. He spoke with Alton in a small room due to the fact there were no interview rooms. He said he advised Alton of his constitutional rights before asking Alton any questions. Alton signed the Miranda form at 12:15 AM.

Sgt. Wilson did not immediately take his statement because he said Alton claimed to request a smoke break. While speaking with Alton he saw Ofc. Williams who was there for about 10 to 15 minutes. While Ofc. Williams was there, Alton gave him information about Idolthus' participation. Ofc. Williams then left. He and Alton then went back into the room to take a written statement from Alton. Sgt. Wilson said the statement was in his handwriting in question-and-answer format. Sgt. Wilson said it took about 45 minutes or so and he left the 7<sup>th</sup> precinct at around 2:00 AM.

***Kevin Reed – Detroit Police Officer – Firearms Identification Unit***

He was provided with a 9 mm handgun. Officer Pauch and Smith prepared a report classifying three bullets, as well as a bullet fragment or metal jacket fragment. Those officers opined that by looking at all those pieces of evidence, the bullets were all fired from the same gun.

Ofc. Reed was asked to compare that gun and see if it matched those bullets. Upon examination of the results of firing the weapon recovered in evidence and checking the tests shots against the three bullets retrieved, he opined that they did not match.

Officer Pauch and Smith claimed that the pieces of evidence received were either from a 9 mm or a 38-caliber.

***Alton Hubbard jury was excused and Ofc. Williams recalled where Idolthus' statement was admitted and read to his own jury. Idolthus' jury was then excused, and Alton's jury was brought back in.***

Ofc. Williams denied threatening or physically assaulting Alton in any way in the breezeway. He said Alton looked annoyed and said, "something to the effect that he has no problem taking responsibility for what he did, but so should his brother." He said he believed Alton was handcuffed to the rear.

## **TRIAL DAY 6 – April 28, 2005**

### ***Sgt. Ernest Wilson – OIC – Continued***

#### ***Idolthus' jury was not present.***

Alton's statement was read to his jury. Sgt. Wilson said he did not threaten him or make any promises to convince Alton to give a statement. He further testified that Alton did not appear to be under the influence of any drugs or alcohol, and that Alton wanted to make a statement after he had his last cigarette. He did not observe Ofc. Williams assault Alton or make any promises to him while they were out in the breezeway. They were there for about 25 minutes.

Sgt. Wilson explained that he would ask Alton a question, he'd write the question, and then would write Alton's answer through the whole statements. The last answer is in Alton's own handwriting. Alton's statement was that they entered the house on Canton, his brother went and got the shotgun and handed it to him. Alton admitted to shooting the white guy on the couch in the dining room, and then shot the guy who was sitting at the kitchen table. Idolthus then turned and shot the lady who was sitting at the kitchen table. Jones by then came into the house and my brother tried to kick the front bedroom door because people were in there. Idolthus shot into the door once and Johnnie shot into the door three times, and then Alton shot in the door once with the gauge. Alton said the handgun he had was a 38-revolver, along with his brother, and Jones. Alton said he shot them to protect his brother's life because they were going to kill him.

Even though Alton was not picked out of the line up, Sgt. Wilson testified that he had to be transferred back to the 7<sup>th</sup> precinct because that was where he was housed at. He was not getting ready to release Alton. Sgt. Wilson claimed that Alton never asked him whether he was picked out of the line up. Sgt. Wilson admitted that a confession from Alton would greatly help the case.

#### ***Both juries returned***

#### ***Genevia Pernell – Family Friend of Alton Hubbard – Alibi Witness***

She had known Alton for about two and half years. She is friends with Alton's mother, Delores. She saw Alton on August 18, 2004, when she arrived at his mother's house between 6 and 7 PM. She heard there was going to be a gathering for Alton's mother's birthday. Alton was there when she got there. She stayed there until 10, 10:30, and Alton was still there at that time. When she left, she went to Alton's sister's house. She and Alton drove together to her house on Iroquois. They went over there to watch her children. It took approximately 5 to 10 minutes for them to get there.

She witnessed Alton being arrested on August 23, 2004. She said that Alton had been drinking at the time of his arrest, and believed it was Hennessey and some beer as well as an Ecstasy pill. On August 18, 2004, from 6:00 pm through the evening until the next day, she was in the company of Alton. She told Alton's first attorney this information and she was subpoenaed for trial.

### ***Alton Hubbard – Defendant***

Alton testified that on August 18, 2004, he was with his family, his mother, and a couple of friends at his mother's house on Wilfred for her birthday. He left the house at around 10, 10:15, when he went to his sister's house with Genevia and Big. Alton said he never went to the house on Canton. On August 23, 2004, he learned that Idolthus and his sister Arkasha were arrested. He went to the 9<sup>th</sup> precinct and asked why they were arrested. He was unable to speak with either of them and then he left and returned to his sister's house when police arrived on scene and arrested him.

Prior to being arrested he drank Hennessey, beer, and an ecstasy pill. He was handcuffed, arrested, and taken to the 7<sup>th</sup> precinct. He said he was arrested for murder. He was in a cell for a couple of hours before he was picked up by Sgt. Wilson and taken to the 9<sup>th</sup> precinct where he was placed in a lineup. Alton said Sgt. Wilson advised him that there would be an attorney for the lineup and that he asked to speak to the attorney but was not allowed to. Alton said Sgt. Wilson told him that he was picked out of the line up. Alton was then taken back to the 7<sup>th</sup> precinct. He was handcuffed to the back and sat on a processing area on a bench.

Sgt. Wilson then came by himself. Alton said he did not ask to speak to him and didn't want to. Rather, Sgt. Wilson began asking him questions when he took him into a small room. During that time Alton asked for an attorney but was not allowed one. He was then taken into the breezeway, and Ofc. Williams was already in there. Alton said he got into an argument with Ofc. Williams and used profanity when the argument became physical. Alton was still handcuffed to the back, and Ofc. Williams hit him and punched him in the chest. He then said that he saw Sgt. Wilson writing out a statement that implicated Alton, and he signed the statement because he was physically assaulted. Alton stated the statement was written in that breezeway area. His handcuffs were taken off momentarily when he was asked to write something on the statement.

While both juries were present, the prosecutor read part of Alton's statement about Alton stating that he picked up his brother on Gratiot, went to the house on Canton, Ray-Ray, Jones, Wop, and himself, and brother Reshard. The prosecutor then read part of Alton's statement where he purportedly said that he turned and shot the lady who was sitting at the kitchen table with the second guy he shot. Alton denied giving any of those statements to Sgt. Wilson as he maintained those were Sgt. Wilson's statements, not his.

### **TRIAL DAY 7 – May 3, 2005**

#### ***Idolthus Hubbard – Co-Defendant***

During the month of August, Idolthus was staying between 4139 Canton and his mother's house. He sold crack from the Canton residence and had been selling there for approximately three weeks. He was working for a man named Tommy, known as "Tom-Tom." A guy named Arthur aka "Red" would answer the door whenever someone knocked.

On August 18, 2004, Tony Johnson, Red, Frank, Jerome, and older lady were at the Canton house smoking, and purchased crack from him. He sold out of crack in the amount of

approximately \$500.00. He got paid earlier in the day in the amount of \$1,000.00, so he had about \$1,000 plus four hundred and something dollars in his pocket that night.

Idolthus admitted that he kept a gun for safety and carried a 9 mm. Ofc. Williams retrieved that 9 mm from the vehicle when he was arrested. There was also a shotgun in the house that was kept upstairs that belonged to Tom-Tom. The only other person who knew about the shotgun was Tony Johnson.

Alton picked him up in a beige car and took him to his sister's house. He said it was Big's car. He said Alton asked him if he knew where he could get a gun and told him about the shotgun back at the Canton house. They went back to Canton, and he knocked on the door, and Red let him inside. Alton was behind him. He told Tony Johnson that he was going upstairs and let Alton use the gauge and that it would be brought back tomorrow.

He got the shotgun and brought it downstairs and gave it to Alton. Alton then walked into the kitchen, and at some point, he heard three gunshots. He turned around and saw Alton come out the kitchen with a handgun and a shotgun.

Idolthus testified that Alton shot and killed Edmonds, Rivers, and Olson, and that he saw Alton shoot Mr. Olson.

### ***Arkasha Howard – Sister***

She had been separated from Jones for two years at the time she took the stand. Jones is the father of their two children. She saw Jones on August 18, 2004, at Chandler Park. She saw him between the hours of 9 – 10 PM, 10:15, or 10:30 PM. She was with her three kids, two of which were his daughters. They were there for an outing and Jones wanted to see his children. She left at around 10:30 because she to be at work by 11:00 at Alexis Coney Island.

Back then, Alton would help babysit her children when she had to be at work, or Genevia. She testified that Alton, Genevia, and Big came to her house on August 18, 2004. Alton was on his way to her house at around 10:30. He got to her house about five or ten minutes after she got back to the house from Chandler Park.

### ***Johnnie Jones – Co-Defendant***

Jones testified that he went to the house on Canton during the afternoon hours because Idolthus called him at around 9 or 10 AM to pick him up. Jones told him he couldn't pick him up at that time because he didn't have any gas in his Dodge Ram. Jones admitted he approached the house and spoke with Tony Johnson who was standing outside and asked about Idolthus. Johnson told him that Idolthus had already left. From there, he went to his brother's house near Nevada and Minnesota street and stayed for several hours until about 7 or 7:30 PM. Jones maintained he went to Chandler Park that evening at around 8:15 or 8:30. He visited his daughters at Chandler. He said he stayed at the park until 2:00 AM.

## **TRIAL DAY 8 – May 4, 2005 – Closing Arguments**

## OVERALL

1. There was testimony from Constance Davenport and Mr. Hubbard's brother implicating him at the scene, as well as Sgt. Wilson speaking about Mr. Hubbard's written statement which implicated him of being at the scene and being the shooter, despite her previously being unable to identify Alton in the live lineup or photo array.
2. Upon information and belief, Mr. Hubbard's brother was advised by his counsel that trial strategy was to point the finger at his brother since his own statement was not suppressed. He currently has retained counsel and is attempting to seek post-judgment relief as well.
3. At trial, Constance Davenport testified that law enforcement provided her with the information about "Gage" and "Gage's brother" and had her write that information in her statement.
4. Neither Tony Johnson nor Constance Davenport identified Mr. Hubbard in the live lineup or photo array that was presented to them immediately after the murders occurred.
5. There are inconsistencies with Mr. Hubbard's statement written by Sgt. Wilson and the physical evidence found at the scene.
6. No evidence was presented at trial about the other possible suspect, Kenny Palmore, because the information was never provided to the defense.
7. No firearms were recovered from the scene.
8. Ballistics evidence at trial:
  - a. Evidence at trial showed that Olsons and Rivers were killed with the same weapon. Evidence Tag Nos. 07138904 and 07139004 came from Rivers. Evidence Tag Nos. 07139104 and 07139204 came from Olson. Firearms officer, Kevin Reed testified that all these bullets came from the same weapon.
  - b. Evidence Tag 07138804 is the bullet retrieved from Edmonds, which was grouped with the 12 gauge, as shot lead pellets.
  - c. Olson and Edmonds were not killed by the same weapon. Edmonds and Rivers were not killed by the same weapon.
9. Mr. Hubbard presented an alibi defense that he was not present at the time of the murders, which was supported by his sister, Arkasha Howard, and his mother's family friend, Genevia Pernell.
10. The only time Mr. Hubbard made incriminating statements is in the written statement that is written in Sgt. Wilson's handwriting at the time of his arrest and interrogation. He

testified that he was assaulted and then agreed to sign the statement. He maintains that he was never at the house on Canton on August 18, 2004.

11. No impeachment evidence was presented at trial about Sgt. Wilson because he failed to disclose that information to the prosecution and/or the defense about being a named defendant in several civil lawsuits for police misconduct.
12. There is new evidence of police misconduct in relation to Sgt. Wilson, in which he has been found to be dishonest, engage in excessive force, and create false reports.
13. There is new evidence about police misconduct in relation to Ofc. Williams, in which he has been found to fabricate probable cause to make a false arrest.
14. There is no physical evidence tying Mr. Hubbard to the scene or the murders.
15. Mr. Hubbard was not released after not having been identified in the lineup. There is no corroborating evidence that law enforcement had information about Mr. Hubbard until after he was already in custody.
16. Mr. Hubbard never had an outstanding traffic warrant at the time he was taken into custody on August 23, 2004, contrary to what Sgt. Wilson testified to at the preliminary examination hearing.

In sum, there are more than sufficient questions raised regarding the available evidence, identification of inconsistent testimony, identification of material witnesses/law enforcement agents with *known* records of police misconduct, and *Brady* violations from law enforcement, to warrant this matter being accepted by the Conviction Integrity Unit. Mr. Alton Hubbard presents a claim of actual innocence and maintains he was never present at the house on Canton on August 18, 2004.

Should you have questions or concerns, or wish to review information referenced within this memorandum, please do not hesitate to let me know.

Sincerely,

LEWIS & DICKSTEIN, P.L.L.C.



Parisa Sadrnia

Encl.