**AFFIDAVIT OF FACT IN THE CASE OF CHARLES LEWIS**

**I, Mary Diane Bukowski, do hereby attest and say:**

This is my sworn statement regarding Charles Lewis, currently MDOC #150709, pursuant to his ongoing juvenile lifer re-sentencing proceedings in front of Third Judicial Circuit Court Judge Qiana Lillard, with a date of October 11 set for his mitigation hearing. Mr. Lewis has been incarcerated for over 43 years since the age of 17 for the murder of off-duty Detroit police officer Gerald Sypitkowski, a crime which he, his family, and numerous eyewitnesses say he did not commit.

1. I have known Mr. Lewis’ family, in particular his mother Rosie Lewis and sister Wendy Lewis since the early 2000’s. They are people of good standing, character and reputation in the community. We first met when I was a professional chief investigative reporter for The Michigan Citizen newspaper, where I worked from 2000 to 2010.

At the time I was covering the case of Lamar Grable, 20, who had been killed by Detroit police officer Eugene Brown Sept. 21, 1996. Officer Brown killed two other men in separate incidents in 1995 and 1999, and shot nine other people. Lamar Grable’s mother Arnetta Grable and father Herman Vallery co-founded the Detroit Coalition Against Police Brutality, which drew numerous other families whose loved ones had been killed by Detroit police. Their efforts, conjoined with many other community groups, led to the U.S. Department of Justice enacting a 10-year consent decree over the Detroit Police Department giving the USDOJ direct oversight of its practices. The DPD was found in 1999 to have the highest per capita rate of civilian killings of any major city in the United States.

In 2006, a Third Judicial Circuit Court civil jury found that Officer Brown had no cause to kill Lamar Grable, who was unarmed, and awarded his family $4 million. City of Detroit appeals of that verdict failed, swelling the award to $6 million. A civil jury also awarded the family of Brown’s third victim, Darren Miller, $3.5 million.

Rosie and Wendy Lewis joined the Coalition to support the other families and also raised the issue of Charles Lewis, the oldest of Rosie’s five children, who they had been battling to free ever since he went to prison at the age of 17.

1. I later covered the actions of the Second Chance coalition, which was seeking to outlaw juvenile life without parole in Michigan. Rosie and Wendy Lewis became part of that coalition as well, traveling to Lansing to testify in front of the Michigan Legislature in hearings, citing the case of Charles Lewis in particular. I took their statements and photos as part of the stories I wrote for the Michigan Citizen, along with other coverage of the Second Chance Coalition. During this time, I became good friends with Rosie and Wendy Lewis.
2. In 2012 and again in 2016, the U.S. Supreme Court outlawed mandatory juvenile life without parole sentences on a retroactive basis, in *Miller v. Alabama* and *Montgomery v. Louisiana.* The State of Michigan began holding re-sentencing hearings for over 363 juvenile lifers including Charles Lewis. His mother Rosie asked me to cover his hearings, which I began doing in March, 2016.

At that time and to date, I have been working as the editor of the on-line Voice of Detroit newspaper, incorporated as Voice of Detroit, LLC in 2011. I have now covered over 45 hearings in Mr. Lewis’ re-sentencing process, an unheard of number of hearings for any juvenile lifer. A good number of the hearings were devoted to the fact that Mr. Lewis’ official court file went missing around 2012, and his Register of Actions was wiped out from 1976 through 1999. It now states he was convicted in front of Judge Gershwin Drain on April 3, 2000. Unlike any other prisoner’s case I have dealt with, there is not even an attached PDF from Detroit Recorder’s Court detailing events during that Court’s existence through 1999. There is also plenty of precedent from the U.S. Supreme Court, the Michigan Supreme Court, Michigan Appeals Courts, and others indicating that the loss of Mr. Lewis’ file, particularly after such a lengthy incarceration, should mean the DISMISSAL OF HIS CASE.

Instead, the prosecution and Judge Lillard have seen fit to authorize a “FACSMILE” file as Judge Lillard called it. I have recently reviewed the files in Judge Lillard’s office on Charles Lewis’ case, which are the only files (none are kept in the Clerk’s Office). I cannot identify which file is meant to be the FACSIMILE File. There is a smaller file which one of the court employees told me Judge Lillard uses for each hearing, but even that is incomplete. I asked to review in particular six recently filed briefs indicated on his Register of Actions, but I was told by a court clerk that Judge Lillard is refusing to allow me to see those briefs, and indeed the second time I reviewed the file they were STILL not there. Mr. Lewis has not seen them either. This is a gross violation of the public’s right to access to legitimate court files which have not been sealed. Additionally, the large box of files I have been given are full of thick sections of OTHER PRISONERS’ files and in complete disarray.

1. I have used my recognized skills as a professional investigative reporter to research the background of Mr. Lewis’ criminal conviction. I can say that aside from Mr. Lewis himself, I am probably the individual with the most knowledge of the circumstances behind that conviction and of Mr. Lewis’ continuing legal battles for justice since 1996.

I am not a reporter who naively accepts statements of innocence from incarcerated individuals, because I continue to cover their cases regardless due to other injustices involved. However, I can truthfully say that after having done an extensive amount of research on Mr. Lewis’ case, I believe that the facts attest to his innocence, as I have shown in many of my stories. Well-respected and experienced Third Judicial Circuit Court Judge Deborah Thomas agreed with this conclusion in her revised opinion of Aug. 6, 2006 (attached). She stated she had thoroughly reviewed the transcript of Mr. Lewis’ first trial, which is now missing almost entirely, and found that the version the juveniles who testified against Mr. Lewis gave was a “scientific impossibility.” She noted that the majority of testimony came from Dennis Van Fleteren, the partner of Officer Sypitkowski, and other eyewitnesses who identified a different perpetrator in a white Lincoln Mark IV.

She also said that she found NOTHING in the transcript indicating that either the defense or the prosecution asked for a mistrial, or that Judge Maher had gone on record IN THE TRANSCRIPT, not the case notes done by the clerk, indicating his reason for dismissing the jury. She said this should have meant that Charles was acquitted and subject to double jeopardy, and that he should have been FREED at the age of 17. Mr. Lewis’ entire life has been stolen from him, including numerous opportunities he had to pursue his extraordinary musical skills as a lucrative career in the world. His family was devastated by his conviction. His mother and stepfather broke up, they lost their home, and much emotional damage was done to Charles’ younger siblings, who had counted on their oldest brother to look after them when their working parents were not available.

I realize the issue of innocence is not usually accepted in juvenile lifer re-sentencings as a factor, despite the fact that MCL 769.25 says issues raised at the trial may be brought into play, and despite the fact that *Miller* also allows such issues in. But I certainly believe the strong evidence of Mr. Lewis’ innocence should militate against any new sentence of Life without Parole.

1. Additionally, the UNCONSCIONABLE, admitted loss of his case file and the wipe-out of his Register of Actions makes it impossible to validate other allegations made against Mr. Lewis in the prosecutor’s brief (e.g. forgery of the Gershwin Drain order which has been claimed), and should militate strongly against such a new sentence. The Office of the General Counsel earlier advised Judge Lillard that due process required her to hold an evidentiary hearing on that matter, a recommendation she ignored, instead holding an *ex parte* phone conversation with Judge Drain, whose daughter Shelley Drain worked in the Prosecutor’s Office during the eight years that Qiana Lillard was there.
2. I have become well-acquainted with Mr. Lewis during our many phone conversations, J-Pays and otherwise. I have found him to be a highly intelligent, extraordinarily determined and caring man who told himself at the age of 17 that if the law wrongly got him into a sentence declaring that he should die in prison, then he would have to study that same law to regain his freedom. That is chiefly what he has spent the last 43 years doing, not only to help himself but to help other prisoners in similar situations. He has developed a strength of character and compassion for others that very few other individuals in his situation would have been able to demonstrate.

He has endured numerous setbacks, including the fact that his attorney Rosemary Robinson had to win a case in the Court of Appeals to obtain a Pearson evidentiary hearing, but then was removed from representing him at the Pearson hearing by Judge Edward Thomas and replaced with an attorney who had no experience in the case. For 10 years, Mr. Lewis was not provided with transcripts of the Pearson hearing and had to file an appeal on his own, since he was abandoned by his replacement counsel.

When Mr. Lewis discovered through an extremely convoluted means the existence of the April 3, 2000 order signed by Judge Drain dismissing his conviction and sentence, 10 YEARS AFTER THE FACT SINCE IT HAD BEEN MISFILED, he still faced extraordinary setbacks. He has detailed the means by which he obtained that order in his motion for declaratory judgment (attached), but has been treated SHABBILY by the prosecution and by Judge Drain who ignored his lengthy explanation and the court and MDOC employees involved and have contuminously declared that he FORGED the order. He has even had to face allegations that his FAMILY might have walked out of the Clerk’s office with the FIVE BOXES OF CASE FILES, an outrageous allegation because review of those files is held in full view of an entire room of Court Clerk employees, and there is no way such an exit could have been made without their observing it.

1. To add to the many injuries Mr. Lewis has suffered through 43 years of incarceration, there is the fact that after AP Thomas Dawson on Sept. 29, 2018 three times told Judge Lillard that she had the option of re-sentencing Mr. Lewis to a term of years due to the loss of his court file, he was in fact transferred by the Michigan Department of Corrections Re-Entry Unit at Macomb Correctional Facility. This led Mr. Lewis and his family to believe, joyously, that he was finally about to see freedom. He went through numerous re-entry classes and preparations involving contacts with social services, Medicaid and other entities to ensure a smooth transition to his new life.

But on Jan. 10, the hopes of Mr. Lewis and his family were CRUELLY DASHED by AP Thomas Dawson’s motion asking for Judge Lillard to certify his FACSIMILE file, which she had until then, apparently deliberately, failed to do. When Judge Lillard did certify the file, the prosecution proceeded onwards with its recommendation for a re-sentence of Life Without Parole. Mr. Lewis mother Rose’s health was SERIOUSLY affected by this unexpected turnabout. She had already been in declining health after years of wearing herself out fighting to free her first-born child, but that was absolutely the last straw. She now needs 24-hour care being provided to her by family. She was once a proud, independent, fiercely determined woman who depended on no one else, who drove herself everywhere she needed to go, helped her son Marc, who is blind, do his grocery shopping and other matters, and was the matriarch of a family flourishing with grand and great-grandchildren.

1. I would additionally like to note that I have been a proud PROFESSIONAL, recognized reporter for over 16 years. I am now 71 years old, and have the wisdom of a lifetime’s experience as an elected union leader during my 25-year employment with the City of Detroit, dealing with the grievances of hundreds of union members for 20 years, a community activist fighting for the preservation of my beloved people and institutions of the city of Detroit, where I was born and have lived until 6 months ago. I have always prided myself on my objectivity as a reporter. Those who have attacked that objectivity have generally been mainstream media representatives and others who are biased on the side of the well-to-do and wealthy in this society. Their perspective must be balanced by those who advocate for the poor and working people, and the U.S. prisoners who make up 25 percent of the world’s incarcerated population while the U.S. has only 5 percent of the world’s actual population. I have NEVER been sued for inaccuracies or libel for any of my stories in the Michigan Citizen or the Voice of Detroit.

***“Then the King will say to those on his right, ‘Come, you who are blessed by my Father, inherit the kingdom prepared for you from the foundation of the world. For I was hungry and you gave me food, I was thirsty and you gave me drink, I was a stranger and you welcomed me, I was naked and you clothed me, I was sick and you visited me, I was in prison and you came to me.’ Then the righteous will answer him, saying, ‘Lord, when did we see you hungry and feed you, or thirsty and give you drink? And when did we see you a stranger and welcome you, or naked and clothe you? And when did we see you sick or in prison and visit you?’ And the King will answer them, ‘Truly, I say to you, as you did it to one of the least of these the least of my brothers, you did it to me.’”***[***Matthew 25:31–46***](https://biblia.com/bible/esv/Matt%2025.31%E2%80%9346)

***I THEREFORE STRONGLY ADVOCATE FOR THE IMMEDIATE RELEASE OF CHARLES D. LEWIS INTO A WORLD WHERE HE CAN CONTRIBUTE HIS MANY TALENTS, SKILLS, AND COMPASSION, A WORLD THAT WILL PROFIT GREATLY FROM HIS PRESENCE****.*

**Stories from The Voice Of Detroit On Mr. Lewis’ Case Can Be Accessed At** [**http://voiceofdetroit.net/2019/05/22/charles-k-k-lewis-judge-orders-final-jlwop-hearings-despite-lost-court-file-innocence-claim/**](http://voiceofdetroit.net/2019/05/22/charles-k-k-lewis-judge-orders-final-jlwop-hearings-despite-lost-court-file-innocence-claim/) **which includes links to all previous stories on his case by VOD.**

**Also see related story at** [**http://voiceofdetroit.net/2019/07/18/msc-grants-harold-walker-new-trial-cites-judge-lillards-jury-coercion-clown-name-calling/**](http://voiceofdetroit.net/2019/07/18/msc-grants-harold-walker-new-trial-cites-judge-lillards-jury-coercion-clown-name-calling/)**.**

Signed,

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Mary Diane Bukowski

Editor, Voice of Detroit, LLC

P.O. Box 38257

Detroit, MI 48235

Phone: 313-825-6126

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