

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
07 CRS 50203

STATE OF NORTH CAROLINA

v.

ROBERT DEAN TAYLOR,
Defendant.

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**SECOND AMENDED
MOTION FOR APPROPRIATE RELIEF**

NOW COMES the Defendant, Robert Dean Taylor, by and through undersigned counsel, and respectfully moves this Court pursuant to N.C. Gen. Stat. § 15A-1415(g), to amend his Motion for Appropriate Relief (MAR) filed on July 17, 2023, to include the following information in support of claims previously raised. All the facts, legal claims, and arguments in Mr. Taylor's MAR and AMAR are incorporated herein as if fully pled.¹

ADDITIONAL INFORMATION RELEVANT TO FIRST CLAIM FOR RELIEF

RECANTATION OF ROBIN WHITED

I. Robin Whited's Testimony was False

1. For relief based on Robin Whited's recantation, Taylor must satisfy the familiar two-part test: "1) the court is reasonably well satisfied that the testimony given by a material witness is false, and 2) there is a reasonable possibility that, had the false testimony not been admitted, a different result would have been reached at trial." *State v. Britt*, 320 N.C. 705, 715 (1987).
2. More than *ten years* after Zilphia Lowery was murdered, Whited gave a dozen statements to law enforcement during the State's investigation. (Exhibits 34-39 and 41-47). The inconsistencies in these statements, and the deliberate attempts to fabricate a story that corroborated the information uncovered and revealed during the State's investigation, as well as the physical evidence collected much later, establish that Whited's testimony, like most of his statements, was false.
3. The chart below documents the evolution of Whited's fictitious statements, after his initial denial of any knowledge or involvement in the death of Zilphia Lowery. As detectives with the McDowell County Sheriff's Office conducted subsequent interviews, took him to key locations, showed him photographs of the crime scene, allowed him to review newspaper articles about the case, and confronted him with what they believed to be physical evidence of a crime having been committed in his trailer, he continuously added details or changed his story until settling on his trial narrative.

¹ Exhibit numbering in this Second Amended Motion for Appropriate Relief (AMAR) continues the numbering used in Mr. Taylor's 2023 MAR and 2025 AMAR.

4. Although Whited's inconsistent statements were available at the time of trial, viewed collectively with his recantation and the now exposed unreliability of the physical evidence, they are powerful corroborating evidence that his trial testimony was false.
5. Under these circumstances, continued reliance on that testimony undermines confidence in the outcome of the proceedings and does not serve the interests of justice.

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09/08/05	Prestige Ford Claypool Hill, VA	During his initial interview with the McDowell County Sheriff's Office, Whited acknowledged that he and Taylor knew Ms. Lowery. At first, Whited claims that only Taylor had sex with Ms. Lowery. He later admits that he also had sex with Ms. Lowery. Whited was unaware that Ms. Lowery was dead. However, at some point, before he moved out of North Carolina, he learned that she was missing. He initially says he met her once, but then says he saw her twice. Taylor had Ms. Lowery's phone number, but Whited was unsure how they met. She came over, and they were drinking. Eventually, she threw up in the bathroom while Whited was having sex with her. Whited is unsure if Taylor had sex with her, but states that he may have had sex with her that night, too. Whited remembers Ms. Lowery wearing shorts when she came over. He does not remember taking her home, but he may have let her out at a little white house at the end of the driveway. He does not allege that Ms. Lowery was harmed or injured while she was at their trailer. (Exhibit 34, App. p. 115).	
09/14/05	Law Office of Bruce Russell, II, Richlands, VA	Whited believes that Taylor said Ms. Lowery called someone to come get her from their trailer. He also believes she was only at his residence once. Whited thinks Taylor and Ms. Lowery came into the residence together, but he may have gone to get her with Taylor around dusk. Whited had a Toyota truck when he lived in McDowell County. While Ms. Lowery was at their trailer, they drank, partied, played music,	• Went to sleep, and Ms. Lowery wasn't there when he woke up. • No longer believes he may have dropped Ms. Lowery off at the end of the driveway. • Thinks Ms. Lowery was there once instead of twice. • New details: - o Ms. Lowery had brown hair with a reddish tint.

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		and danced together. She came onto Whited, and at some point, they went into the bedroom and had sex. Then, Ms. Lowery got sick and went into the bathroom. Whited continued to have sex with her while she was sick in the bathroom. Whited may have passed out in the living room. When he woke up, Taylor was there, but Ms. Lowery was not. Taylor said that she called a friend to pick her up. Whited denies killing Ms. Lowery. He describes Ms. Lowery as skinny with brown hair with a reddish tint. He thinks the events with Ms. Lowery took place on a weeknight. He “guessed” that he had hauled away an outdoor rug and shampooed the carpets. A voice stress exam was administered, and deception was detected. Whited again denies any involvement in or direct knowledge of Ms. Lowery’s death. Whited states Ms. Lowery was in a good mood and cutting up while she was with them. Whited says that it “seemed like” Taylor had a scratch on his face the following morning. He didn’t ask where the scratch came from. (Exhibit 35, App. pp. 116-17).	- o Taylor may have had a scratch on his face the next morning. - o He “guessed” he hauled away a rug and shampooed the carpets.
09/26/05	Law Office of Bruce Russell, II, Richlands, VA	Whited was interviewed after the McDowell County Sheriff’s Office executed a search of his former trailer on Vernon Bradley Road, where he lived at the time of Ms. Lowery’s disappearance. The trailer was searched with luminol for the presence of blood, and one positive reaction on the carpet in the living room indicated the possibility of blood with phenolphthalein. (Exhibit 53, App. pp. 177-80). During this interview, Whited claims that Taylor woke him up that night or the next morning and said that Ms. Lowery had fallen and hit her head. Taylor said that she was not okay, and he was acting scared.	• Alleges for the first time that Ms. Lowery fell and hit her head in an apparent attempt to explain the possible presence of blood. • He does not recall what he did with the rugs. • He is now uncertain how Ms. Lowery was dressed on the night in question. • New details: - o He <i>may</i> have left the trailer after being woken up by Taylor. - o He saw a brown spot the size of a dinner plate next to

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		Whited told him to call someone to help her, but Taylor said he couldn't because no one would believe him, given his record. Whited doesn't remember what he did next. Taylor said if anyone ever asked, Whited was to say Ms. Lowery called someone to pick her up. Whited maintains that Taylor had a scratch on his face. Whited now recalls seeing a brown spot the size of a dinner plate on the bathroom floor near the commode. He doesn't remember if he went to work the next day or what he did after Ms. Lowery was at their trailer. Whited didn't check on Ms. Lowery when Taylor told him what happened, and he likely told Taylor he didn't want to know about it and may even have left the trailer for a while. Whited is not certain whether this occurred or if it is just a picture in his mind, but he does picture seeing blood on the side of the garden tub and Ms. Lowery lying on the floor in front of it. Whited has no recollection of Ms. Lowery being carried out of the trailer or of how she was dressed. Whited states that Taylor may have removed her from the trailer prior to waking Whited. Whited doesn't recall what he did with the rugs. Whited denies that David "Jody" Stewart came over that night, but later says he may have come over and asked them to turn the music down. Later in the interview, Whited says that Jody may have come inside and partied with them, but he is not sure if it was the same night Ms. Lowery was there. Whited may have found her pocketbook and placed it at a store somewhere, but he couldn't be specific about where he left it. He hadn't told them before about Taylor waking him up because Taylor had threatened him about revealing this information. (Exhibit 36, App. p. 118).	the commode and <i>may</i> have seen blood near the tub. - o Taylor was acting scared. - o Taylor said they couldn't call for help. - o Jody Stewart <i>may</i> have come over that night. - o Jody Stewart <i>may</i> have come over and asked them to turn the music down or he <i>may</i> have come inside and partied with them. - o Taylor <i>may</i> have removed her body from the trailer before waking him up. - o Whited <i>may</i> have found Ms. Lowery's pocketbook and placed it at a store somewhere. - o Taylor threatened Whited.
11/12/05	McDowell County Sheriff's Office	Whited was interviewed following several requests from the McDowell County Sheriff's Office for him to travel to	• Whited previously claimed that he didn't check on Ms. Lowery when Taylor told him that she

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		McDowell County to help with his “recall” and “struggle remembering details” by “revisit[ing] some of the places” that they “discussed with him, in hopes that seeing these places again will help refresh his memory.” (Exhibit 48, App. p. 172). The interview narrative notes that Whited “reviewed newspaper articles concerning the on-going investigation of this case” and then “went on to provide the following information relating to this investigation.” Whited does “seem to recall finding a purse under the rocking chair in his living room” after Ms. Lowery was there. It was leather or vinyl, but he is not sure of the color. He advises that “it seems like” he left the purse at a store’s door, but he does not recall making any follow-up calls or contacts about it. He is not sure if he traveled out of town around that time. After providing this information, the interview narrative notes that Whited “accompanie[d] investigators to a number of areas of interest to this investigation,” including M&M Supermarket, Beam’s Old Store, Nebo Truck Stop, Nora Harris’ residence, the mobile homes of David and Denise Stewart on Vernon Bradley Road, the Black Bear Road area, and Ms. Lowery’s gravesite. “Upon returning to MCSO, the interview with Robin continued.” He “viewed some of the photos held with evidence in this case,” including the reconstruction of Ms. Lowery’s skull and the area “where the remains were discovered as it then appeared.” After Whited accompanied investigators to areas of interest to the investigation and	fell and hit her head, but he could picture seeing blood on the side of the tub and Ms. Lowery lying on the floor. He wasn’t certain whether that actually happened. Now, Whited states with certainty that he walked to the door of the bedroom, where he looked in and saw Ms. Lowery lying on the bathroom floor and blood on the bathtub. After seeing her body, he covered his eyes and walked into the living room. - Whited previously claimed that he had no recollection of Ms. Lowery being carried out of the trailer and suggested Taylor removed her body before waking him up. Whited now recalls numerous details about disposing of her body, including going outside to his truck and playing the stereo until Taylor came out carrying Ms. Lowery with her head wrapped in a white towel and then driving Taylor to an area around the lake to dispose of her body. He now “thinks” there was blood in the truck bed after he drove Taylor to dispose of her body near the lake. - Whited states early in the interview that “it seem[ed] like” he put Ms. Lowery’s purse at the door of a store, but he did not recall making any follow-up calls about it. Later in the interview, he recalls

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		reviewed photographs in evidence, he provided the following information: Whited took Taylor to pick up Ms. Lowery. She was standing outside the old store building that he visited with Captain Greene and Detective Shook. They stopped at the ABC store on the way back to the trailer with Ms. Lowery. After Taylor woke him up as discussed in previous interviews, Whited walked to the door of the bedroom, where he looked in and saw Ms. Lowery lying on the bathroom floor and blood on the bathtub. He covered his eyes and walked into the living room. Whited said they needed to call someone, but Taylor told him not to say anything. Whited “thinks” Taylor asked him to help clean up, but Whited refused. Taylor said Ms. Lowery stumbled, fell, and hit her head. Whited recalls that Taylor and Ms. Lowery were dressed, but he couldn’t describe their clothing. Whited went to his truck and played the stereo. Taylor came out carrying Ms. Lowery and put her in the back of the truck. Taylor said they had to get rid of her. Whited “thinks” her head was wrapped in a white towel. Whited drove Taylor to an area around the lake. Whited stayed in the truck while Taylor got her out and carried her into the woods. Taylor was gone for 20 minutes. They returned to the trailer, and Taylor told him to keep his mouth shut. Whited slept in a chair in the living room that night. The next morning, he did not see any obvious blood. Whited did not recall any blood that needed to be cleaned later. However, Whited “thinks” there was a small amount of blood in the truck bed. Whited doesn’t recall Taylor having any blood on his clothing.	placing the purse at M&M Supermarket and believes that he later called the supermarket from his parent’s residence. • New details: ○ Whited took Taylor to pick up Ms. Lowery from the old store building that he visited with investigators and they stopped at the ABC store on the way back to the trailer with Ms. Lowery. ○ He thinks Taylor asked him to help clean up but Whited refused. ○ Ms. Lowery and Taylor were both there and clothed when Whited was woken up. ○ Whited slept in a chair in the living room that night. ○ Whited doesn’t recall seeing any obvious signs of blood the next day. ○ Whited found Ms. Lowery’s leather or vinyl pocketbook under a rocking chair in the living room.

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		Whited has no recollection of moving a rug but “may have shampooed the carpets before moving out as a precaution.” Whited recalls placing Ms. Lowery’s pocketbook he found in his trailer at M&M Supermarket, and he feels like he called the store from his parents’ residence. He went to work the day after Ms. Lowery was at his trailer, and he thinks he went to Virginia the following weekend. (Exhibit 37, App. pp. 119-20).	
11/14/05	Phone Call	Whited called Captain Greene and “advised that investigators needed to find Jody’s (David Stewart’s) old Vega station wagon before proceeding further” because “officers might find what they were looking for there – blood, etc. Whited went on to say that he doesn’t feel the information given during his 11-12-05 interview was correct. Whited now recalls that he went to bed that night because he had to work the next day.” Whited claims that he left Ms. Lowery and Taylor partying in the living room, and Taylor told him that someone had picked her up. (Exhibit 38, App. p. 121).	• Insinuates that David “Jody” Stewart was involved in Ms. Lowery’s murder. • Recants his statement from two days prior and claims that he went to bed and left Ms. Lowery and Taylor partying in the living room.
11/14/05	Robin Whited’s driveway	After Whited’s call to Captain Greene, Detective Shook and Captain Greene immediately drove to Whited’s residence in Wardell, Virginia. They met with Whited in his driveway, and he “indicated the information provided in his 11-12-05 interview is true,” contrary to what he told Captain Greene during their phone call earlier that day. Whited claims that he called Captain Greene because he was afraid that Taylor was going to tell a bunch of lies that implicated him. Whited admits he was trying to “re-focus the investigation in a different direction.” (Exhibit 39, App. p. 122). Whited confirms that he picked up Ms. Lowery and took her to his house. Taylor had her number, but Whited does not know	• Returns to his story that Taylor woke him up and said Ms. Lowery fell and hit her head, and he helped to dispose of her body. • Abandons his allegation that David “Jody” Stewart’s station wagon contains evidence related to the murder. New details: ○ David “Jody” Stewart came over while Ms. Lowery was at the trailer, but he left prior to Whited having sex with her.

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		how he got it. Whited had sex with Ms. Lowery in the master bedroom and then passed out in the living room. David “Jody” Stewart was at their trailer while Ms. Lowery was there, but he left prior to Whited having sex with Ms. Lowery. Whited alleges that Taylor woke him up and said Ms. Lowery fell and hit her head. Whited walked to the bedroom door and saw her lying in front of the tub with blood on the side of the tub. Whited covered his eyes and walked back into the living room. Whited went to his truck. Taylor came outside, carrying Ms. Lowery, and put her body in the back of the truck. Whited drove to the lake, and Taylor got out of the truck. Whited heard the tailgate drop, and Taylor was gone for 20 minutes. Whited found the pocketbook a couple of days later and took it to the store, where he put it on the ground by the front door. Whited took Taylor back to Virginia that weekend. Whited called the store at least a couple of times, but he specifically remembers calling twice to ask if someone had found the pocketbook. When he called the second time, he asked them to take the pocketbook to the police station. He was out of town when he made these calls. (Exhibit 39, App. p. 122).	- o David “Jody” Stewart came over to ask them to turn the music down. - o Confirms that he “saw blood in the truck – a smudge or drag pattern.” - o Drove Taylor to Virginia the weekend after Ms. Lowery was at their trailer. - o Called the store where he left Ms. Lowery’s pocketbook a couple of times and asked whoever answered the phone to take the pocketbook to the police station.
01/09/06	Richlands Police Department	On January 4, 2006, Captain Greene, SA McClellan, and Detective Shook executed another search warrant at Whited’s former trailer on Vernon Bradley Road. Two cuttings of the sheetrock-type ceiling, a carpet remnant that bordered the tub, and a shower knob were collected into evidence. One of the areas on the ceiling was field-tested with phenolphthalein for the possible presence of blood, yielding a positive reaction. (Exhibit 40, App. pp. 123-34 and Exhibit 54, App. pp. 181-82). After the	• Instead of saying the victim fell and hit her head, Whited says Taylor and Ms. Lowery were involved in a struggle in the living room. He claims Taylor drew his hand back to strike Ms. Lowery and elbowed Whited in the face when he attempted to intervene. • Alleges Taylor carried Ms. Lowery into the master bedroom while Whited went outside to his truck because he

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		search, Captain Greene and Detective Shook interviewed Whited again. During this interview, Whited indicates that the information he previously provided was his “complete recollection,” but “eventually stated he had other recollections,” however, the “sequence was somewhat confused.” Whited states “he did not recall until confronted by officers about it, but after being reminded, DOES have a recollection of taking a shower with Zilphia that night.” Whited states that after he passed out on the couch, “he was awakened by a disturbance surrounding a ‘struggle’” between Taylor and Ms. Lowery in the living room. She appeared to be trying to get away from Taylor. Whited rolled over and covered his head with a pillow. Taylor was about to strike Ms. Lowery, so Whited got up and attempted to stop him, but Taylor elbowed him in the face. Whited went back to the couch like a “scared rabbit.” Taylor had Ms. Lowery in a bear hug from behind and carried her into the master bedroom. Whited went outside to his truck and came back inside 20-30 minutes later. He saw Ms. Lowery on the floor, and Taylor was cleaning up. Taylor said Ms. Lowery fell and hit her head. Whited went and sat in the truck until Taylor came out with her body. Whited “initially stated he did not recall seeing blood on the ceiling but did recall seeing swipe marks on the ceiling later – as though the ceiling had been cleaned.” He “ultimately admitted that he had, in fact, seen and helped clean spots of blood off the ceiling with something like Pledge or glass cleaner the next day.” Whited did not notice any blood spots in the bathroom. Towards the end of the interview, Whited states that he believes Taylor cleaned the ceiling once but didn’t do a thorough job, so Whited	feared Taylor. When Whited came back inside 20-30 minutes later, Ms. Lowery was on the floor, and Taylor was engaged in an apparent clean-up. Taylor told Whited the victim fell and hit her head. New details: ○ After he is told there was “blood” found on the ceiling of the trailer, he “stated he did not recall seeing blood on the ceiling but did recall seeing swipe marks on the ceiling later – as though the ceiling had been cleaned.” ○ He then claims he helped clean the blood off the ceiling with Pledge or glass cleaner the next day. ○ Most of the spots of blood were smaller, but some were the size of a quarter. ○ Did not notice any blood spots in the bathroom. ○ Taylor cleaned the floor while Whited cleaned the ceiling. ○ Taylor tried to tape the plastic partition between the bedroom and bathroom back together. ○ Whited took a shower with Ms. Lowery that night.

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		cleaned it again. Whited notes that the colored plastic partition between the bedroom and bathroom was broken, and the bed was “messed up.” Whited “expressed concerns about going to prison . . . and about being involved (with Zilphia’s death) but not remembering it (which he later discounted).” (Exhibit 41, App. pp. 135-36).	
04/25/06	Richlands Police Department	At Taylor’s trial, Captain Greene testified that the interview on April 25, 2006, was recorded after they had interviewed Whited for some period of time. (Trial Tr. P. 539). The interview began at “6:40 in the evening, and . . . [they] started taping at about three minutes after 10:00.” (Trial Tr. P. 539). He testified that they had “gotten this lab report back . . . where they weren’t able to eliminate [Whited’s] blood from being present in the mixture on the ceiling” so during “the unrecorded portion”, they were “basically confronting him about that finding and the possibility of it being his blood on the ceiling and looking for an explanation” because they “had not heard any explanation for his blood being on the ceiling.” (Trial Tr. P. 541). Captain Greene began the recorded portion of the interview by asking Whited to summarize what they had talked about. Whited describes waking up to a disturbance and seeing Taylor with Ms. Lowery in a bear hug. He tried to get Taylor to leave her alone, but Taylor backhanded him. Taylor took her into the bedroom as she tried to pull away from him. Whited tried to intervene again, but Taylor pushed him, and Whited broke the glass partition between the bedroom and the bathroom. Taylor then picked up an object and hit Whited with it. Whited describes it as a brass swan or stork. Whited fell to the ground, and when he woke up, Taylor was on top of Ms. Lowery’s body in the doorway between the	• After being confronted about the possibility of his blood being on the ceiling, Whited no longer alleges that he went outside, sat in his truck for 20-30 minutes, came back inside, and saw Ms. Lowery on the floor. He now alleges that Taylor hit him on the head with an object, and he woke up on the ground and saw Taylor on top of Ms. Lowery’s body. New details: ○ When Whited tried to intervene, Taylor picked up a brass swan or stork and hit Whited with it. Whited fell to the ground, and when he woke up, Taylor was on top of Ms. Lowery. ○ Whited was bleeding “bad” and had blood running down his neck by his shoulder. ○ There may have been blood on the walls.

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		bedroom and the bathroom. Whited went outside and sat in his truck until Taylor came outside and put her body in the back of the truck. When Whited is asked if he drove her to the lake, he replies, “Yeah Bear Waller...whatever.” Greene asked what happened when they got home and added, “you ended up having to clean up. Is that right?” He then asked Whited what he cleaned, and Whited claims he cleaned the blood on the ceiling. When Greene asks how he cleaned it, Whited replies, “chair and rag.” When asked if he remembered much blood that he had to clean off the ceiling, he replies “Uh...” and when asked if he had to clean blood off the walls, he says “there may have been some on the walls.” Greene states numerous alleged facts, and Whited responds by stating “yes.” Several of Whited’s responses to Greene’s statements are “inaudible.” Whited acknowledges that Taylor would have taken more than a couple of steps to get the brass bird and come back and hit him with it but maintains Taylor did so while holding onto Ms. Lowery. Whited claims that he was bleeding “bad” and blood was running down his neck by his shoulder. Whited found Ms. Lowery’s purse, but Taylor didn’t know about it. Whited went to Virginia and called the store where he had left the purse. (Exhibit 42, App. pp. 137-49).	
08/03/06	Richlands Police Department	Whited was interviewed by Captain Greene at 11:07 p.m. Captain Greene noted on the record that prior to recording this statement, they discussed Whited’s previous statement, and he “indicated that actually some of the information he gave was not correct before.” In fact, Whited “stated the version he had previously provided concerning Zilphia Lowery’s death was not truthful.” Whited “initially said he did not recall what transpired after he (Robin) and Zilphia had	• Contrary to his prior statement that Taylor woke him up and said the victim fell and hit her head, Whited now claims he witnessed Taylor slapping Ms. Lowery, slinging her around causing her to hit her head on the bedside table, and striking her three to four times with his hand then his fist. This statement is also inconsistent with his former statement that

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		taken a shower” and had sex while she was sick. He “acknowledged there were other things he remembered concerning Zilphia’s death that he had not told officers because they implicated him in the death – he was afraid of going to prison and losing his family” and “asked a number of questions about what prison was like and where he might be assigned to complete a sentence.” According to Whited, he was dancing with Ms. Lowery, and she started coming onto him. She wanted to go into the bedroom, so Whited asked Taylor if it was okay, and he said to go right ahead. Whited and Ms. Lowery went in the bedroom, showered, and had sex in the bathroom. She started getting sick, but she wanted to continue having sex. Taylor came into the bedroom while she was performing oral sex on Whited. Taylor said it was his turn, so he grabbed a hold of her, and they fought as he tried to hold her down and “make her do it.” Taylor slapped her and then slung her around, causing her to hit her head on the bedside table. Taylor then struck her three to four times with his hand then his fist. Taylor and Whited fought, and Whited laughs as he recalls Taylor “whooping him.” Whited told Taylor that they needed to call for help, but Taylor said he couldn’t because of his past record. Whited thinks she was still moving and clarified that she was “moving her leg” and said “Oh” because of where she hit her head. They decided to get rid of her body, and Taylor told him that if he didn’t help, he’d be lying right there beside her. Whited helped dress her, and Taylor wrapped her body up in a sheet with a towel around her head. By the time they dressed her body, she was not moving or making any utterances. Whited helped take her to the truck. Whited alleges that after the body was hauled away, Taylor cleaned blood off the floor and ceiling of the	he woke up after Taylor hit him on the head with an object and Taylor was on top of Ms. Lowery’s body and his prior statement that he returned to the bedroom after an altercation with Taylor and learned Ms. Lowery had fallen and hit her head. • Now claims that he helped dress Ms. Lowery’s body and carry her to his truck and that she was still moving and making sounds. Prior to this interview, Whited had never claimed that Ms. Lowery was still alive after she was injured. • Now “could not recall injuries he (Robin) sustained during the affray or explain how his (Robin’s) blood may have been mixed up with Zilphia’s on the ceiling.”

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		bedroom. Whited “inquired as to whether a possible weapon had been found at either the residence or body recovery site” and whether Taylor’s fingerprints would still be present on the weapon. When asked if he was scared, Whited laughs and states that he was “scared plum out of [his] skin.” Whited admits the case has haunted him and laughs, saying he is still scared out of his skin during the interview. He explains that he is scared of going to prison and losing his family. He states that the “untruth” has haunted him and driven him crazy, thinking about going to court, getting on the stand, and telling a story that wasn’t true. It “bothered [him] very badly” and he “prayed about it a lot, please Lord, I don’t want to get up there and do that.” Whited assures Captain Greene that this statement is the truth, and he could testify to it. At the end of the interview, Whited tells Captain Greene, “I didn’t want to make you mad at me cause I think so much of you (laugh).” When Greene asks Whited if he’s made any threats or promises, Whited replies “Why, no, I love you with all my heart (laugh).” (Exhibit 43A, MCSO Operations Report, App. p. 150 and Exhibit 43B, Transcript of August 3, 2006, Interview, App. pp. 151-59).	
08/09/06	Richlands Police Department	Whited “advised that the information provided in his taped interview (of 08-03-2006) was accurate and complete as to the death of Zilphia Lowery.” He “maintained he did not see Bobby Taylor hit Zilphia with any object other than his fist.” He “does not recall any injuries he (Robin) had after the confrontation and cannot offer an explanation for why his (Robin’s) blood may have been on the ceiling.”	New details: o He walked out of the room for a brief period after the confrontation, and when he returned, Taylor had removed the sheets from the bed.

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		Whited states that he walked out of the room for a brief period after the confrontation with Taylor, and when he returned, Taylor had removed the sheets from the bed. Whited reiterates that Taylor had Ms. Lowery's phone number on a piece of paper when Whited came home from work. Taylor was "punching numbers" on the phone and came across her number. Whited was under the impression that Taylor had already talked to Ms. Lowery and was waiting for Whited to return so he would have a ride to pick her up. (Exhibit 44, App. p. 160).	
01/31/07	Richlands Police Department	More than 13 years after the murder and almost four months after his previous interview, Whited "maintained the information he provided in his most recent interviews was a truthful and complete reflection of his recollection of the events surrounding the death of Zilphia Lowery." Whited clarifies that he "left the room for five minutes (during the altercation previously discussed)" and Ms. Lowery was lying on the master bedroom floor when he returned. (Exhibit 45, App. p. 161).	Clarifies that he only left the room for five minutes and that Ms. Lowery was lying on the bedroom floor upon his return.
04/29/08	Typed Statement	In a statement prepared a few months before Taylor's trial, Whited states that he and Ms. Lowery showered together and fooled around while Taylor stayed in the living room. Whited had sex with Ms. Lowery in the bathroom. She got sick, but she pulled him back against her from behind when she was finished throwing up. Then, they went to the bedroom and had sex. After they finished having sex, Taylor came into the room and reached for her, but she pulled away. Taylor said he was going to get some too. Taylor pushed Whited onto the floor. When Whited rose up off the floor, Taylor hit him with a hard object, and Whited ran out of the room, bleeding while he was still naked. Whited had blood all over his hand.	- Despite maintaining his last three statements were "truthful and complete," Whited's story changed yet again. He disavows his statement that he witnessed Taylor strike Ms. Lowery several times and now alleges that he was hit with a hard object and ran out of the room bleeding. Whited then heard a sharp thump and returned to find Taylor on top of Ms. Lowery. - Although Whited claimed in his last three statements that he helped dress Ms. Lowery and carry her to his truck, he

DATE	LOCATION	SUMMARY OF STATEMENT	ADDITIONAL DETAILS AND INCONSISTENCIES
		Whited “heard a thumping noise. Once. A sharp thump.” Whited went back into the room and saw Taylor on top of Ms. Lowery. She wasn’t moving. She was still naked, but Taylor was clothed. Taylor gathered up the bed sheet. Whited said that they needed to get her help, but Taylor said they couldn’t because of his past record. Whited left the room and started pacing, still naked. While he was getting dressed, Taylor told him that he better keep his mouth shut. Whited went outside and sat in his truck. Taylor came out carrying Ms. Lowery in his arms and put her in the back of the truck. Taylor didn’t know where to take her, so Whited drove to a remote area near a lake. When they pulled over on a gravel road, Taylor got out and took her into the woods. Taylor threatened to pay Whited’s family a visit if Whited ever said anything. Taylor told Whited to act like she had fallen and hit her head. When Whited went back into the bedroom, Taylor had cleaned up. Whited went to work the next day. When he got home, he cleaned the spots that Taylor missed. Whited recalled a rug on the porch. The rug was there when he moved in, but he didn’t remember moving it. Whited found Ms. Lowery’s purse under the chair in the living room, but Taylor wasn’t there when he found it. Whited wanted to leave it somewhere so someone would find it and start asking questions. Whited believed Jody Stewart came over the night that Ms. Lowery was at his trailer. Whited shampooed the carpets before he moved out. (Exhibit 46, App. pp. 162-65).	attempts to further minimize his involvement and alleges that he went outside and waited in his truck until Taylor came outside carrying Ms. Lowery. New details not mentioned in Whited’s prior three statements he maintained were “truthful and complete”: - o Taylor threatened to pay Whited’s family a visit if he ever said anything. - o Taylor told Whited to act like Ms. Lowery had fallen and hit her head. - o Taylor cleaned up, but Whited cleaned the spots that were missed the next day. - o Whited found Ms. Lowery’s purse under the chair in the living room. - o Whited left Ms. Lowery’s purse somewhere because he wanted someone to find it and ask questions. - o David “Jody” Stewart came over the night that Ms. Lowery was at Whited’s trailer.
07/06/08	McDowell County District Attorney’s Office	Whited was interviewed two days before Taylor’s trial began, with ADA Alex Bass, ADA Marie Hartwell, and Captain Greene present. The interview notes indicate they “were taken during trial preparation and are comprised of only new statements or statements contradicting earlier statements.”	• “Whited specifically says that the statement about waking up on the couch, seeing a struggle, and seeing Taylor take Lowery into the bedroom was not true, but instead, he was in bed with Lowery when Taylor came in,

DATE	LOCATION	SUMMARY OF STATEMENT	ADDITIONAL DETAILS AND INCONSISTENCIES
		“Whited was questioned about inconsistencies and retractions in his statements. Whited says that he is telling conflicting stories because he is both scared of Bobby Taylor and afraid of going to prison. Whited says he wants it to go away. Whited says that ‘Dan and Dudley wanted answers I didn’t know how to give’, that ‘I wanted to give. I didn’t have them.’” Whited states that he was in bed with Lowery when Taylor came into the room. Whited never saw Taylor hit Ms. Lowery. Whited never helped Taylor dress Ms. Lowery’s body and move it from the house. “Whited maintained that his earlier statement was correct, where he said that after being knocked off the bed by Taylor, then hit in the head with some object, that Whited left the room, going into the living room where he found himself bleeding; after a while Taylor came out.” (Exhibit 47, App. pp. 166-71).	as given in one of the other statements.” • “Whited specifically says that he never saw Taylor hit Lowery,” even though he previously claimed that he witnessed Taylor strike Ms. Lowery three or four times after he slung her around, causing her to hit her head on the nightstand. • Contrary to his prior statement, “Whited specifically says that he never helped Taylor dress Lowery’s body and move it from the house.”

6. As evidenced by the chart above, Whited’s narrative of significant facts changed dramatically from his first interview with the McDowell County Sheriff’s Office in September 2005 to his testimony at Taylor’s trial in July 2008.
7. After Whited had already provided three statements and denied any knowledge of Ms. Lowery’s death or disappearance during his first two interviews, Detective Shook emailed Whited’s attorney, stating:

Obviously, we continue to work diligently on this case and have been discussing ways to help Robin’s recall and his struggle with remembering details. We would like to suggest that Robin come here to McDowell Co. so that we can take him to revisit some of the places that we have discussed with him, in hopes that seeing these places again will help refresh his memory.

(Exhibit 48, App. p. 172).

8. The following week, on October 14, 2005, Detective Shook emailed Whited’s attorney again, stating they were “anxiously awaiting Robin’s response concerning his visit to

McDowell Co.” Detective Shook cautioned Whited’s attorney that he “needs to understand that this is not going to just go away.” (Exhibit 49, App. p. 173).

9. On October 24, 2005, Detective Shook followed up with Whited’s attorney again about his request for Whited to visit McDowell County:

DSHOOK

From: "DSHOOK" <[REDACTED]>
To: "Bruce Russell" <[REDACTED]>
Sent: Monday, October 24, 2005 3:04 PM
Subject: ROBIN'S VISIT TO McDOWELL CO.

BRUCE,

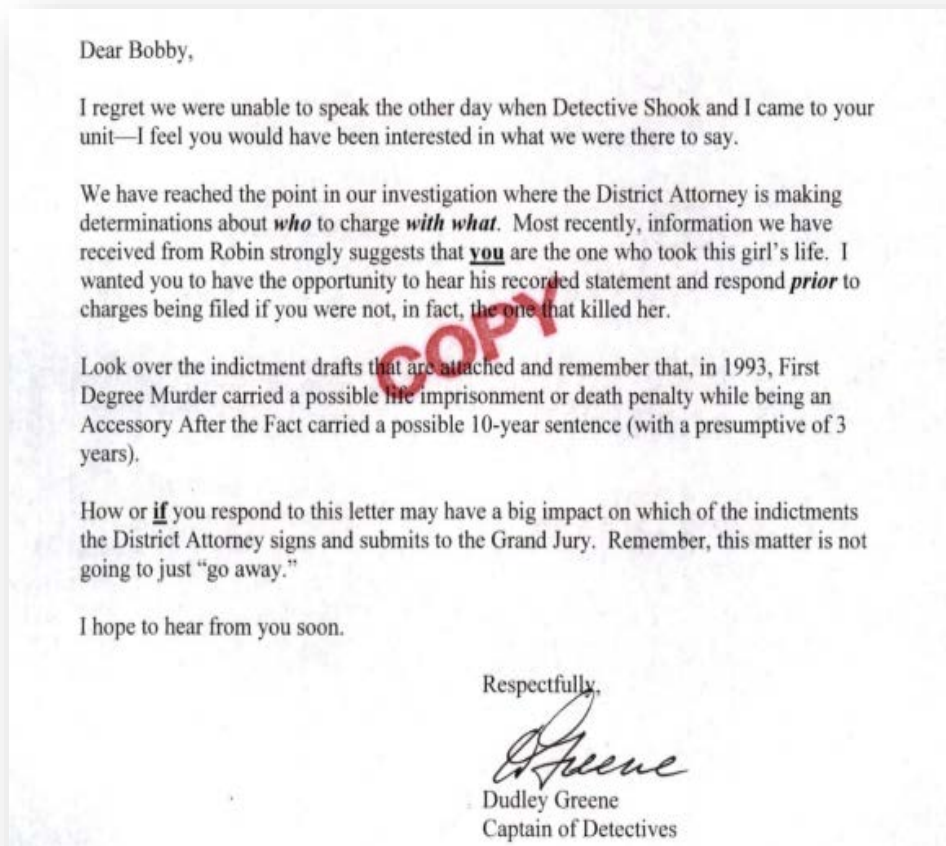
HAVEN'T HEARD ANYTHING ON OUR REQUEST FOR ROBIN TO COME TO McDOWELL CO. I ASSUME HE STILL WANTS TO COOPERATE. WE HAD REQUESTED FOR HIM TO VISIT THIS PAST SATURDAY, HOWEVER SATURDAY HAS COME AND GONE WITH NO RESPONSE. WE WOULD LIKE TO RESCHEDULE ROBIN'S VISIT FOR THIS SATURDAY, 10/29/05. WE ARE TRYING TO HOLD OFF TALKING TO BOBBY UNTIL WE MEET AGAIN WITH ROBIN. PLEASE LET ME KNOW SOMETHING BY WEDNESDAY, 10/26/05.

THANKS, DAN

(Exhibit 50, App. p. 174).

10. A few weeks later, on November 12, 2005, Detective Shook’s persistence paid off, and Whited visited McDowell County to help with his “recall” and “struggle remembering details.” On that date, Whited provided another statement to law enforcement. (Exhibit 37, App. pp. 119-20).
11. But the McDowell County Sheriff’s Office still wasn’t satisfied with Whited’s account of the murder. In fact, after Whited provided eight statements to law enforcement, Captain Greene attempted to visit Taylor, and then mailed him the following letter dated May 25, 2006:

[Remainder of page intentionally left blank.]



(Exhibit 51, App. p. 175).

12. Captain Greene was clearly trying to build a story – any story – where either Taylor or Whited was the murderer and the other was the accessory. The McDowell County Sheriff's Office was wedded to their theory that Whited and Taylor were responsible for Ms. Lowery's murder and were determined to see one of them implicate the other.
13. Based on Captain Greene's willingness to allow Taylor to plead to accessory after the fact, depending on "how or if he responded to this letter," they remained incredulous after Whited provided eight statements. Any doubt about Whited's truthfulness did not impede the State's investigation of this 1993 homicide or their decision to ultimately charge Taylor with Ms. Lowery's murder.
14. Instead, they proceeded with "a very difficult lengthy progression of interviews with Mr. Whited," admittedly learning "something new" each time they interviewed him as he made "things up on the fly." (Trial Tr. P. 437).
15. Even after this "difficult lengthy progression of interviews" with the McDowell County Sheriff's Office and a meeting with prosecutors about his inconsistencies and retractions, Whited was called to testify at Taylor's trial. Among his multiple inconsistent accounts of

the murder, Whited apparently settled on the account described in the typed statement prepared only a few months before the trial. Namely, Whited testified:

- a. On the night that Ms. Lowery came to his trailer, he was drinking and dancing with her. (Trial Tr. P. 61).
 - b. At some point, he told her that he needed to shower, and she suggested taking a shower with him. (Trial Tr. Pp. 61, 64). When they got out of the shower, they had sex in the bathroom until she got sick. (Trial Tr. P. 67). He denied having sex with her while she was sick but admitted that he had sex with her immediately afterward. (Trial Tr. P. 68).
 - c. They went into the bedroom while the door was still open. (Trial Tr. P. 69). After they had sex, Taylor came into the room and “said it was his turn.” (Trial Tr. Pp. 70, 72). He grabbed hold of Ms. Lowery, and she pulled away from him and told him to stop. (Trial Tr. P. 72).
 - d. Whited reached up to try to get Taylor to leave her alone, but Taylor “back-armed” him and hit him in the back of the head. (Trial Tr. Pp. 73-74). Whited felt his head and noticed that his palm was “fairly bloody.” (Trial Tr. P. 75). When Whited went back into the bedroom five to ten minutes later, he saw Taylor on top of Ms. Lowery’s body with a sheet and a towel wrapped around her head. (Trial Tr. Pp. 77-78). Whited testified that her head was bloody, and there was a little bit of blood on the bathtub. (Trial Tr. P. 78).
 - e. Whited “paced around the floor awhile” and then went outside to his truck. (Trial Tr. P. 81). Eventually, Taylor came out carrying Ms. Lowery, put her body in the back of the truck, and said “let’s go.” (Trial Tr. Pp. 84, 88).
 - f. Whited could not recall where they took her body, or if there was definitely a body of water nearby, but when they got there, Taylor got out of the truck and carried her body into the woods while Whited waited in the truck. (Trial Tr. P. 89).
 - g. When Whited got home from work the following day, Taylor had been cleaning the trailer. (Trial Tr. P. 95).
16. In addition to the alleged “facts” surrounding Ms. Lowery’s death and disappearance, Whited was also asked about his lies and inconsistencies. He testified:
- a. He didn’t know why he lied about seeing Ms. Lowery and Taylor fighting in the living room. (Trial Tr. P. 121).
 - b. He “kind of” felt like he was being pushed when he was being interviewed “in a small room, like a questioning room” with “Officer Dudley and Officer Dan” taking turns asking him questions. (Trial Tr. P. 121).

- c. He was not truthful when he said that he saw Taylor strike Ms. Lowery but didn't know why he made such an allegation if it wasn't true. (Trial Tr. P. 122). He also wasn't sure why he told the officers that he helped dress Ms. Lowery before they removed her body from the trailer, since that was not true either. (Trial Tr. Pp. 122-23). He testified that he "was scared and didn't know what to do," but was hoping that statement would help his case if he was charged. (Trial Tr. P. 123).
 - d. He told several "misstatements" during his interviews because he was "confused" and "scared" when he was being questioned. In fact, when asked whether the fear and terror were so great that he sat there and made stuff up knowing none of it was true, Whited testified, "Yes, sir." (Trial Tr. P. 231). Irrespective of these "misstatements", he maintained that his testimony was "the truth" as best as he could remember it. (Trial Tr. P. 123).
17. Despite his obvious efforts to cooperate with the State against Taylor and avoid the possibility of prison, Whited was asked during direct examination whether he had any agreement with the State to testify, and he replied, "No sir." (Trial Tr. P. 87). He was also asked, "You have no kind of deal at all to get up there and say your story; is that correct?" and he again answered, "No sir." (Trial Tr. P. 88).
18. When Whited was questioned during cross-examination about whether he asked any of the officers involved in the case if he would be charged, Whited testified that "It's according to how it turns out" and confirmed that meant if Taylor was convicted, he was "in the clear" but if he was not convicted, he "may have problems." (Trial Tr. P. 287). Thus, the implication was clear: testify against Taylor and help the State secure a conviction, or he may have problems.
19. On August 18, 2008, a little over a month after Taylor was convicted, Whited pled guilty to felonious accessory after the fact to murder and received a 3-year suspended sentence and 30 days of probation. (Exhibit 52, App. p. 176).
20. On January 24, 2023, Whited signed an affidavit recanting his trial testimony against Taylor. (2023 MAR, Exhibit 2).
21. In his affidavit, Whited stated that he did not know Ms. Lowery was missing or that she had been murdered until detectives from the McDowell County Sheriff's Office came to interview him in 2005. (2023 MAR, Exhibit 2). Whited was interviewed several times in the months that followed and told that he would be arrested for Ms. Lowery's murder and spend the rest of his life in prison, so he made up a story about what occurred the night that she was at their trailer. (2023 MAR, Exhibit 2).
22. The truth, according to Whited's affidavit, is that Ms. Lowery "was not harmed in any way" while she was at their trailer. (2023 MAR, Exhibit 2).
23. Whited never witnessed Taylor murder Ms. Lowery, never helped Taylor dispose of her body, and never saw any blood in their trailer after she was there. (2023 MAR, Exhibit 2).

24. Whited's affidavit is supported or corroborated by:

- a. His initial denial of any direct knowledge or involvement in Ms. Lowery's death or disappearance during his first two interviews before he was informed by unrelenting detectives with the McDowell County Sheriff's Office about details of the investigation.
- b. His inherently unreliable interviews with the McDowell County Sheriff's Office, as he fabricated a story that resulted in multiple inconsistent accounts of the night that Ms. Lowery was at their trailer. Among the inconsistencies were whether Ms. Lowery was harmed while she was at their trailer, whether Taylor was responsible for her death, and the circumstances surrounding her death.
- c. The coercive nature of several interviews that left Whited feeling "scared" and pressured into providing information that implicated Taylor, including:
 - i. Being interviewed in a small questioning room with Detective Shook and Captain Greene taking turns asking questions (Trial Tr. P. 121);
 - ii. Numerous interviews without an attorney present (Exhibits 37-39 and 41-47);
 - iii. Prolonged interviews late at night inducing mental and physical exhaustion (Exhibits 43A and 43B; Trial Tr. P. 539);
 - iv. Threats of possible prison time (Exhibits 43A and 43B; 2023 MAR, Exhibit 2);
 - v. Promises of leniency in exchange for his testimony against Taylor (Trial Tr. P. 287);
 - vi. Leading questions that increased the likelihood of suggestibility (Exhibit 42, App. pp. 137-49); and
 - vii. Extended periods of unrecorded interviews prior to taping (Exhibits 43A and 43B; Trial Tr. P. 539).
- d. Detective Shook's persistent efforts to have Whited travel to McDowell County to help with his "recall" and difficulty remembering details by visiting sites relevant to the investigation, reviewing newspaper articles about the case, and viewing photographs in evidence, which highly undermined the integrity of the State's investigation. (Exhibits 48-50).
- e. Whited's admission to prosecutors when confronted about the inconsistencies and retractions in his statements that Detective Shook and Captain Greene "wanted answers [he] didn't know how to give." Even though he "wanted to give [them,] [he] didn't have them." (Exhibit 47, App. pp. 166-71).
- f. Whited's testimony that he told several "misstatements" during his interviews because he was "confused" and "scared" when he was being questioned. (Trial Tr. P. 231).

- g. Whited's testimony that he was so fearful during his interviews that he sat there and made stuff up, knowing none of it was true. (Trial Tr. P. 231).
 - h. Whited's extraordinarily unreliable self-serving statements that reduced his perceived culpability of the offense and allowed him to plead to accessory after the fact.
 - i. Whited's favorable plea to accessory after the fact and a 3-year suspended sentence and 30 days probation, while Taylor is serving life in prison. (Exhibit 52, App. p. 176).
 - j. Taylor, like Whited in his affidavit and early interviews with the McDowell County Sheriff's Office, also acknowledged that Ms. Lowery visited their trailer and partied with them one night but denied any direct knowledge or involvement in her death or disappearance. (Trial Tr. P. 622-30, 638, 644).
 - k. Newly discovered evidence presented in Taylor's 2025 AMAR that discredits the physical evidence used to build Whited's false testimony. (2025 AMAR, Pp. 11-13). Specifically, the State's use of false and misleading evidence to convince Whited and the jury that Ms. Lowery's blood was found on the ceiling of Whited and Taylor's trailer.
 - i. Whited was scared into giving his statements and his testimony against Taylor by the alleged presence of the victim's blood in his trailer.
 - ii. The false and misleading physical evidence was used to shore up Whited's false testimony for the jury.
 - l. Finally, unlike his testimony at Taylor's trial, Whited's recantation was made absent any threats or duress. Whited was not incentivized to make the statements in his affidavit and did not stand to gain anything from his recantation other than a clear conscience. (2023 MAR, Exhibit 2; Trial Tr. P. 287).
25. Whited's inconsistent statements, his admitted lies about material facts in those statements, his favorable plea documented by law enforcement as the enticement for his false testimony, his recent affidavit recanting his trial testimony, and the evidence corroborating his recantation, all support a finding that Whited's testimony was false.

II. Without Robin Whited's Testimony, Taylor Would Not Have Been Convicted

26. As discussed in Taylor's MAR and AMAR, the jury had a difficult time reaching a unanimous verdict in this case. The jurors asked to see several exhibits in the jury room, deliberated until 7:00 pm on Friday, July 11, 2008, and returned on Monday, July 14, 2008, to inform the Court that, after several hours of deliberation, they could not reach a unanimous verdict. (Trial Tr. P. 736).

27. The foreperson advised the Court that the numerical division between guilty and not guilty continued to change, and eventually they reached a “concrete” divide. (Trial Tr. P. 737).
28. The jury requested that the court repeat the full instructions, which the trial court did, along with an *Allen* charge. (Trial Tr. P. 737).
29. After continuing deliberations, the foreperson requested transcripts of certain witness testimony, including Whited’s testimony. The Court advised the foreperson that “there are no transcripts,” and the request was denied. (Trial Tr. P. 739). The jury was instructed to continue deliberating. The jury recessed for dinner and returned a guilty verdict shortly after 8:00 pm. (Trial Tr. P. 741).
30. The jury found Taylor guilty of first-degree murder based on the felony murder rule with attempted second-degree rape as the underlying felony.
31. Besides Whited, no other witness and no physical evidence established that Taylor attempted to rape Ms. Lowery or murdered her during the commission of an attempted rape. Thus, the jury could convict Taylor of first-degree murder based on attempted rape only if it believed Whited.
32. During the charge conference, the State informed the Court that they were proceeding under the felony murder rule, and the Court specifically inquired about the underlying felonies. The State expressed its belief that there was evidence of “attempted rape or attempted forcible sex offense,” and the Court remarked, “You’re bootstrapping yourself on what Mr. Whited said?” (Trial Tr. P. 615). The State replied, “Yes, sir.” (Trial Tr. P. 615).
33. The State bootstrapped itself to a false narrative that Whited constructed from among his multiple inconsistent accounts of Ms. Lowery’s murder, which were based on law enforcement’s intentional or unintentional relay of what has now been established as unreliable conclusions about the physical evidence, as well as investigative and interviewing practices that would never be used today.
34. Whited’s false testimony was the State’s only direct evidence of attempted rape, attempted forcible sex offense, or first-degree murder.
35. Thus, there is more than a reasonable possibility that, had the false testimony not been admitted, a different result would have been reached at Taylor’s trial.

PRAYER FOR RELIEF

WHEREFORE, Defendant respectfully prays unto the Court the following:

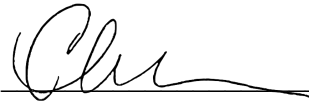
1. Order the State to file a response to Mr. Taylor’s 2023 MAR, 2025 Amended MAR, and this Second Amended MAR;

2. Hold an evidentiary hearing; or
3. Issue an order vacating Mr. Taylor's convictions and ordering a new trial; and
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted, this 25th day of June, 2026.

Attorneys for Robert Dean Taylor:

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Certificate of Service

I hereby certify that, via the Court's electronic filing system, I caused to be served a copy of the above **Second Amended Motion for Appropriate Relief** upon the following:

Mr. Michael McEnery
Assistant District Attorney
21 S. Main Street
Marion, NC 28752

This 25th day of June, 2026.



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SECOND AMAR EXHIBIT LIST

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Exhibit 34, MCSO Interview Narrative (Sept. 8, 2005)	115
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Exhibit 36, MCSO Interview Narrative (Sept. 26, 2005)	118
Exhibit 37, MCSO Interview Narrative (Nov. 12, 2005)	119-20
Exhibit 38, MCSO Interview Narrative, Phone Call with Robin Whited (Nov. 14, 2005)	121
Exhibit 39, MCSO Interview Narrative (Nov. 14, 2005)	122
Exhibit 40, MCSO Operations Report, Execution of Search Warrant; Search Warrant; and Application for Warrant (Jan. 4, 2006)	123-34
Exhibit 41, MCSO Interview Narrative (Jan. 9, 2006)	135-36
Exhibit 42, MCSO Transcript of Recorded Statement (Apr. 25, 2006)	137-49
Exhibit 43A, MCSO Operations Report (Aug. 3, 2006)	150
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Exhibit 46, Typed Statement of Robin Whited (Apr. 29, 2008)	162-65
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Exhibit 48, Email from Detective Shook to Bruce Russell (Oct. 6, 2005)	172
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