

**COMMONWEALTH OF KENTUCKY  
GRAVES CIRCUIT COURT  
07-CR-00060**

*\* Filed Electronically \**

**QUINCY OMAR CROSS**

**MOVANT**

v.

**COMMONWEALTH OF KENTUCKY**

**RESPONDENT**

\* \* \* \* \*

**MR. CROSS'S POST-HEARING BRIEF IN SUPPORT OF  
HIS MOTION TO VACATE CONVICTION PURSUANT TO CR 60.02**

Mr. Cross has presented this Court with newly discovered evidence and a robust record establishing he did not receive the fair trial to which he is entitled to under the Fifth and Fourteenth Amendments of the U.S. Constitution. Four separate key witnesses against Mr. Cross, including the two alleged eyewitnesses, have recanted their perjured trial testimony, and law enforcement officials have admitted to using techniques the witnesses say coerced them into giving the false statements. The new evidence provides this Court with extensive reasons to doubt the genuineness of the witnesses' false trial testimony and supports what Mr. Cross has always maintained: he did not commit the crimes for which he was charged and convicted. Without the perjured testimony of these witnesses, the Commonwealth's case and evidence against Mr. Cross is nonexistent. When this Court considers the newly discovered evidence in conjunction with the totality of the evidence - as it must - justice demands a new trial be ordered so a jury can make a fair and just determination.

## ARGUMENT<sup>1</sup>

### I. **The Newly Discovered Evidence of Perjured Trial Testimony and New Witness Statements Justifies Relief Under CR 60.02**

CR 60.02 is designed to address extraordinary situations that do not, as a rule, appear during the progress of a trial. *Howard v. Commonwealth*, 364 S.W.2d 809 (Ky. 1963). CR 60.02 has been found to allow a defendant relief where the facts rendered the judgment such that, “to enforce [it] as rendered would be an absolute denial of justice and analogous to the taking of life or property without due process of law.” *Jones v. Commonwealth*, 108 S.W.2d 816, 817 (Ky. 1937).

CR 60.02 provides, in pertinent part:

On motion a court may, upon such terms as are just, relieve a party or his legal representative from its final judgment, order, or proceeding upon the following grounds... **(b) newly discovered evidence by which due diligence could not have been discovered in time to move for a new trial under Rule 59.02; ... or (f) any other reason of an extraordinary nature justifying relief.**

CR 60.02(f) “gives a trial court authority to relieve ‘a party of his legal representative’ from its final judgment for any reason ‘of an extraordinary nature...’” *Hinshaw v. Hinshaw*, 216 S.W.3d 653, 656 (Ky. App. 2006). A criminal conviction obtained through wrongful information can be a reason of extraordinary nature justifying relief. *Commonwealth v. Spaulding*, 991 S.W.2d 651, 657 (Ky. 1999). “Relief under CR 60.02(f) is available where a clear showing of extraordinary and compelling equities is made.” *Bishir v. Bishir*, 698 S.W.2d 823, 826 (Ky. 1970).

The Kentucky Supreme Court has consistently held that CR 60.02 serves as, a safety valve, allowing trial courts to correct errors of fact and injustices in application. In *Clark v. Commonwealth*, 528 S.W.3d 342, 348 (Ky. 2017), the Kentucky Supreme Court held, “the purpose

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<sup>1</sup> Mr. Cross hereby incorporates by reference his previously filed Reply and Memorandum of Law in this case.

of CR 60.02 and our accompanying case law is to ensure that those individuals convicted of a crime receive the due process that is afforded them under law.” CR 60.02 is “designed to allow trial courts a measure of flexibility to achieve just results and thereby, ‘provides the trial court with extensive power to correct a judgment.’” *Kurtsinger v. Board of Trustees of Kentucky*, 90 S.W.3d 454, 454-55 (Ky. 2002).

**A. Mr. Cross is Entitled to Present the Newly Discovered Evidence to a Jury**

In *Bedingfield v. Commonwealth*, the Kentucky Supreme Court held that defendants, like Mr. Cross, are entitled to present newly discovered evidence to the trier of fact:

When newly discovered evidence is of such a nature that it is *manifest to the conviction, substantially impacts the testimony of a material witness, or would have probably induced a different conclusion by the jury had the evidence been heard*, then assuredly the interests of justice demand a criminal defendant is entitled to have such evidence set before the court.

260 S.W.3d 805, 810 (Ky. 2008) (emphasis added); *See also, Graham*, 586 S.W.3d at 770; *See also, Commonwealth v. Harris*, 250 S.W.3d 637, 640-641 (Ky. 2008); *See also, Clark*, 528 S.W.3d at 344-345. Additionally, Mr. Cross is *not* “required to prove his actual innocence; only the result of a new trial would probably be different.” *Graham*, 586 S.W.3d at 770. “If it appears that there otherwise might be a miscarriage of justice, a court should show no hesitancy in granting a new trial to a Movant who has filed a motion under CR 60.02.” *Mullins v. Commonwealth*, 375 S.W.2d 832, 834 (Ky. 1964).

**B. Recanted Testimony Forms the Basis for a New Trial Where There Exists a Probability the Conviction Would Not Have Resulted if the Truth Had Been Revealed**

In *Thacker v. Commonwealth*, the Kentucky Supreme Court set out a special rule for situations of recanted testimony in the post-conviction context. 453 S.W.2d 566 (Ky. 1970)..

Reiterating the “extraordinary” and “unusual circumstances” language of CR 60.02 (f), the Court in *Thacker* held:

...only in extraordinary and unusual circumstances will a new trial be granted because of recanting statements; such statements will form the basis for a new trial only when the court is satisfied of their truth; the trial judge is in the best position to make the determination because he has observed the witnesses and can often discern and assay the *incidents, the influences and the motives that prompted the recantation.*

453 S.W.2d 566, 568 (Ky. 1970) (emphasis added). In setting forth the special rules, the *Thacker* Court examined two cases involving recanted testimony by principal prosecuting witnesses. In the first, *Shepherd v. Commonwealth*, 101 S.W.2d 918 (Ky. Ct. App. 1937), the Court found the original testimony was unnatural, was contradicted by physical facts and other evidence, and was opposed by evidence substantial in quality and quantity. In the second case, *Mullins v. Commonwealth*, 375 S.W.2d 832 (Ky. Ct. App. 1964), the Court found the circumstances were such as to cast doubt on the truth of the original testimony.

In this case, the recanted testimony is analogous to both *Shepherd* and *Mullins*. As demonstrated below, Mr. Cross has presented this Court with substantial evidence from the evidentiary hearing to cast doubt on the truthfulness of the trial testimony of Victoria Caldwell, Vinishia Stubblefield, Shamica Powell, and Latoya “Patrice” Senter<sup>2</sup> and which supports “the genuineness and good faith of the repudiations” and “the probability that the conviction would not have resulted if the truth had been revealed.” *Anderson v. Buchanan*, 168 S.W.2d 48, 54 (Ky. Ct. App. 1943).

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<sup>2</sup> As this Court held in its October 29, 2025 Order, “[Mr. Cross’s] case is distinctive in that the conviction is based almost entirely on witness testimony.” Order at 7.

## II. Evidentiary Hearing

### A. Multiple Key Commonwealth Witnesses Recanted and Admitted They Lied at Mr. Cross's Trial, Providing the Incidents, Influences, and Motives that Prompted the Recantation

#### 1. Vinisha Stubblefield Admitted She Gave Perjured Testimony at Mr. Cross's Trial

Vinisha Stubblefield testified at the evidentiary hearing that she did not tell the truth at Mr. Cross's 2008 trial. Attachment 1, 11/25/25 Hearing Transcript, page 44, lines 8-10 (hereinafter "Att. 1, 11/25/25 Trans., 44:8-10"). At trial, she testified against Mr. Cross for the Commonwealth as an alleged eyewitness, implicating him and several others in the murder, sexual assault, and disposal of Jessica Currin's body. But at the hearing, Vinisha swore under oath, after consulting with counsel about potential perjury charges, she lied at trial when she testified Mr. Cross picked her up in a car the night Jessica went missing. *Id.* at 67:14-17. She swore she lied when she told the jury she and Mr. Cross picked up several people in the car, including Victoria Caldwell, Tamara Caldwell, Jeffrey Burton, and Jessica Currin, on the night of Jessica's murder. *Id.* at 67:18-22. She admitted she lied when she implicated herself in the sexual assault of Jessica. *Id.* at 67:23- 68:1. She admitted she lied when she testified she saw Mr. Cross hit Jessica. *Id.* at 68:2-4. And she admitted she lied when she told the jury she helped dispose of Jessica's body. *Id.* at 68:9-11.

According to Vinisha, she lied at Mr. Cross's trial because law enforcement officials, including Kentucky Bureau of Investigation ("KBI") agents Lee Wise and Robert O'Neil ("the agents"), repeatedly threatened her to implicate Mr. Cross. *Id.* at 44:14 - 45:11; 89:21- 90:1. The agents pressured her to say she was present during Jessica's murder and that she had taken part in the crimes. *Id.* at 160:3-5. She specified at the hearing that "Lee Wise is the one that was doing all the talking.... And he was going to make sure that my mother spent her - - the rest of her life in the cell beside me, and that he was going to see that we died in there by lethal injection. That's

what Mr. Wise said.” *Id.* at 64:8-22. Vinisha believed Wise’s threats<sup>3</sup> and feared lethal injection if she did not do as she was told. *Id.* at 64:23 – 65:1.

When asked by this Court to list all the officers who told her what to say at trial, Vinisha answered Lee Wise, Robert O’Neil, and Kentucky State Police (“KSP”) Detectives Michelle Kent and Sam Steger. *Id.* at 198:18 – 199:9. She testified that she learned a lot of information about the case and what detectives wanted to hear from her during her *seventeen* separate law enforcement interrogations. *Id.* at 200:3-24; 201:10-14; 206:10-18. Vinisha specified, “Lee Wise was the main one that told [her] exactly what to say at the trial.” *Id.* at 96:15-20. Vinisha also stated that Ms. Whaley, the trial and post-conviction prosecutor who was present for some of the interviews and phone calls with Vinisha, was too involved in directing her on what to say. *Id.* at 199:10–20. On cross-examination, clearly upset, Vinisha asked Ms. Whaley to “put herself in [Vinisha’s] shoes. “What if it was [Ms. Whaley] being threatened and was told everything to say? How would she feel?” *Id.* at 165:10-22.

Vinisha testified at the hearing she repeatedly told investigators the truth – that she had no personal knowledge about Jessica’s murder – both prior to and after Mr. Cross’s trial. “From the jumpstart I tried to tell the truth, but no one believed me when I tried to tell the truth in the beginning.” *Id.* at 65:14-16. The record shows Vinisha testified, under oath, at Jeremy Adams’<sup>4</sup>

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<sup>3</sup> As noted in detail below, the agents denied, for the most part, “threatening” the witnesses in this case, testifying instead that they informed the witnesses of “potential consequences.” Att. 3, 12/18/2025 Trans., 101:11-12. Regardless of the agents’ intent, the witnesses provided credible testimony of their subjective belief the agents threatened them, pressuring them to implicate themselves and Mr. Cross.

<sup>4</sup> Jeremy Adams fathered a child with Jessica. On September 7, 2000, Victoria Caldwell signed a written statement indicating she heard Adams planning Jessica’s death. In January 2001, Adams began confessing to several inmates in the McCracken County jail. On February 15, 2001, Adams was charged with Jessica’s murder. In 2004, Adams failed a polygraph examination in regard to Jessica’s murder. In 2003, the Graves Circuit Court dismissed the case against Adams, finding law enforcement withheld critical discovery.

grand jury proceeding that the last time she saw Jessica Currin, Jessica walked off by herself, heading up Walnut Street. Defense Hearing Exhibit 3, Grand Jury Trans., 10/4/2004, 13:18-28. Vinisha also testified then that she stayed at Patrice Senter's house that night. *Id.* at 16:19-26; 22:4-20. Although she was warned she may face perjury charges now, Vinisha was never threatened or charged with perjury after her testimony implicating Mr. Cross at his trial, which drastically contradicted her earlier sworn testimony at the 2004 grand jury proceeding. Att. 1, 78:16 – 79:3.

In 2023, Vinisha met with Kentucky Innocence Project (“KIP”) attorneys while housed in Marshall County jail. *Id.* at 46:1-5. Vinisha recalled the meeting wherein she told KIP attorneys she lied at Mr. Cross's trial. *Id.* at 61:16-20. Vinisha agreed she wrote and signed the statement specifying she was pressured and threatened by law enforcement to implicate Mr. Cross and that she never saw Mr. Cross, Tamara Caldwell, Jeffrey Burton, Austin Leech, Isaac Benjamin, or Victoria Caldwell at any time from July 29 through August 1, 2000.<sup>5</sup> *Id.* at 47:9-16; 61:21-23.

Likewise, at the hearing, Vinisha testified it was the truth when she told ABC News reporter John Quinones in 2025 what she had maintained for years during the initial investigation: she last saw Jessica when Jessica walked off towards her home in the early morning hours after playing cards at Patrice's house. *Id.* at 60:19- 61:2. Vinisha went back to Patrice's home to stay the night and did not leave. *Id.* at 210:14 – 211:4. Vinisha was *not* present when Jessica was killed, nor when her body was disposed of. *Id.* at 68:12-17. Vinisha insisted – as she did for many years - that she does not know who killed Jessica. *Id.* at 68:18-19. She further acknowledged she did not even know Mr. Cross in 2000 and did not meet him until 2005. *Id.* at 209:13-17.

Although Vinisha tried to stick to the truth during her *seventeen* separate interrogations, law enforcement would not let her. *Id.* at 206:10-18. “They [Wise and O’Neil] kept interrogating

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<sup>5</sup> Vinisha's July 31, 2023 declaration was entered as Defense Exhibit 1 at the hearing.

me. They kept on forcing me to say that I took part in it and everything. And it was just so overwhelming to the point where I just really wanted to scream in their faces that I did it.” *Id.* at 89:9 – 90:1. The agents – particularly Wise – yelled at Vinisha during the interrogations. *Id.* at 85:20-23. Vinisha testified she felt humiliated. “I felt like everything they was [sic] saying – that Lee Wise then was saying – I felt like they were just forcing me to say everything that they wanted me to say.” *Id.* at 88:25 – 89:3. And, Vinisha acknowledged having intellectual disabilities, comprehension issues, and mental illnesses, such as PTSD and an anxiety disorder – making her susceptible to coercive law enforcement tactics. *Id.* at 69:1-21. Ultimately, Vinisha lied at trial because she was threatened “to say that [she] was there and that [she] had something to do with it.” *Id.* at 68:20-24. Vinisha also lied during her plea colloquy; she felt she had no choice but to take the plea or be charged with murder. *Id.* at 207:12-23. Vinisha’s plea deal was entirely dependent upon her testifying at Mr. Cross’s trial that he killed Jessica. *Id.* at 210:4-6.

Vinisha testified that even though she could now face perjury charges and go to jail for recanting her trial testimony, she chose to come forward because she wants everyone to finally know the truth. *Id.* at 101:15-19. When asked if she had any loyalty to Mr. Cross, Vinisha testified, “To be honest and tell the truth, that’s my loyalty.” *Id.* at 101:20-23.

## **2. LaToya “Patrice” Senter Admitted She Gave Perjured Testimony at Mr. Cross’s Trial**

LaToya “Patrice” Senter was called as a witness by the Commonwealth at the hearing. There, she testified that Jessica Currin, Vinisha Stubblefield, and Lanisha Mayfield were at her house playing cards the evening of July 29, 2000. Att. 2, 11/26/25 Trans., 268:7-25. Patrice confirmed that when the card game ended, the girls tried to find Jessica a ride because she wanted to be home when her parents brought her son home the next morning. *Id.* at 269:5- 270:13. They were unable to find a ride, so Jessica decided to walk. *Id.* at 270:13-19. Patrice remembered seeing

Jessica walk away, “going down from 15<sup>th</sup> to 14<sup>th</sup>.” *Id.* at 270:20-23. Vinisha and Patrice went back to Patrice’s house. *Id.* at 271:1-3.

When asked by the prosecutor if Vinisha stayed at Patrice’s house for the entirety of that night, Patrice answered “Yes,” contradicting her trial testimony - for the first time - while on the stand. *Id.* at 271:11; 312:23-25. Patrice admitted she testified falsely at trial when she said Vinisha left that night. *Id.* at 282:16-22. Patrice testified further, “I remember that from [age] 17 to 26 I always said that Vinisha stayed at my house... Until the KBI threatened me and told me to say that she didn’t.” *Id.* at 271:14-18.<sup>6</sup> Specifically, Patrice recalled being threatened by a black KBI officer who showed up to her home in 2006 or 2007. *Id.* at 275:1-2; 296:1-20. Though she could not remember the agent’s name or the name of the other individual with him, they told her they were the KBI. *Id.* at 297:3-19. The officer told her that if she did not change her story to say Vinisha *did not* stay at Patrice’s that night, she would be in trouble. *Id.* at 299:15:18. He threatened, “I would go to jail pregnant with my daughter, and I would have my daughter there, and I wouldn’t be in her life for years.” *Id.* at 301:16-22.

Patrice recalled the agents recorded only parts of the interview that took place at her home – “They had a recording device, but they didn’t record everything. They stopped it, pushed record, stopped” and would speak to her while the recording was paused<sup>7</sup>. *Id.* at 299:23- 300:10.

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<sup>6</sup> When Patrice began to answer critical questions differently than she had testified at Mr. Cross’s trial, the Court recognized her intention to recant and allowed her to consult with counsel. *Id.* at 275:14- 276:15. Ultimately, the Court ruled that because Patrice, after being sworn, had answered questions differently than at the trial, she had effectively recanted and had waived her right to invoke the 5<sup>th</sup> Amendment. This Court advised her of such, and Patrice continued testifying. *Id.* at 280:9- 281:2.

<sup>7</sup> Agent Wise admitted during the interrogation “Patrice, you know, we’ve spoke a while off tape about the reason we’re here...” *Id.* at 307:2-16.

Through tears, Patrice testified at the hearing, “I was pregnant with my daughter, and he threatened me if I didn’t change [my story], I’d be in trouble because Vinisha had already confessed to it, and if I didn’t say it, I wouldn’t be able to have my daughter.” *Id.* at 313:1-9. Ultimately, Patrice admitted her testimony at Mr. Cross’s trial that Vinisha left her house in a car that night was a lie; she was only repeating what the KBI bullied her to say. *Id.* at 313:13-20; 291:17-19.

### **3. Shamica Powell Admitted She Gave Perjured Testimony at Mr. Cross’s Trial**

Shamica Powell testified at the hearing that she was just 12 years old when she learned of Jessica Currin’s death. *Id.* at 12:1-6; 14:1-6. Shamica recalled her friends and family talking about it, and there being rumors about the murder. *Id.* at 14:7-16. Shamica testified she was interviewed by police at school when she was 15 or 16 and that no parent or guardian was present. *Id.* at 15:23-16:3. But that was not the only time. Shamica testified that law enforcement came and talked to her *multiple* times at school. *Id.* at 88:1-15. She recalled law enforcement sharing information about the case with her and telling her that Mr. Cross had murdered Jessica Currin. *Id.* at 17:4-9.

At trial, Shamica was called and testified as a prosecution witness. *Id.* at 18:1-15. She was in jail on a probation violation at the time, so law enforcement picked her up and transported her to another jail the day before her testimony. *Id.* at 19:6-11. Shamica testified at Mr. Cross’s trial that one day while walking with her friend, Shannon Morgan, she heard Mr. Cross confess to killing Jessica. At trial, she also said that Mr. Cross threatened that if she or Shannon said anything about his confession, he would kill them.

However, Shamica testified at the hearing that she did not personally know Mr. Cross and has never had a conversation with him. *Id.* at 13:12-16. She testified Mr. Cross did not ever confess

to her, or while in her presence, that he killed Jessica or had any involvement in her murder.<sup>8</sup> *Id.* at 26:4-9; 49:13-21; 79:12-16. She swore that Mr. Cross never threatened her. *Id.* at 26:13-14. Instead, law enforcement and Shannon Morgan told her to say those things at trial. *Id.* at 49:13-21; 51:14-19; 76:17-19; 79:10-11; 88:11-18; 95:12-17. Shamica recalled it was initially a white male officer who told her what to say but that several other officers had done so over the years as well. *Id.* at 87:15-16; 88:11-20. Shamica explained why she felt threatened to lie at the trial:

I was a juvenile delinquent. I was in and out of jail, and I had a daughter. My parents were drug dealers, and I was threatened with getting my daughter took from me if I didn't say this. I was threatened to – my parents were threatened, they'd take them to jail, send me off if I didn't say this, if I didn't say that. *Id.* at 50:13-25.

She testified that when police officers came to speak with her at school when she was a kid, they kept her out of class for several periods, badgered her, and threatened to take her mom to jail for selling drugs unless she said that Mr. Cross killed Jessica. *Id.* at 70:3-10.

Shamica did not come forward with the information that she had lied at trial until recently because she did not want to get in trouble. She explained, “What was my point in talking about it if I've already done said what I was told to say, then I'm going to move on with my life. I'm not going to, you know, go and say something else and then get myself in trouble for perjury or whatever.” *Id.* at 60:22- 61:6. She described being scared of police, saying, “I was scared of the police because they were the ones threatening me. So why would I go to the police if they're the

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<sup>8</sup> Concerned with the possibility of facing perjury charges, Shamica attempted to invoke her Fifth Amendment right against self-incrimination. But by then, Shamica had given many answers directly contradicting and recanting her trial testimony. Eventually, when asked specifically on cross-examination whether she heard Mr. Cross confess to the murder of Jessica Currin, Shamica replied, “I invoke my 5<sup>th</sup> Amendment rights. *Okay. No, I don't. He never – no, he never did confess anything to me.*” *Id.* at 43:11-16 (emphasis added). Ultimately, this Court found Shamica had waived her Fifth Amendment right, advised her of such and instructed her to answer the remainder of the questions. *Id.* at 45:13-15; 47:13-16.

ones telling me that they're going to put my family in jail and take my daughter from me and – before I let anything like that happen to me, I'll say what I got to say.” *Id.* at 79:1-11.

Shamica confirmed that James Dudley, an investigator for the Exoneration Project, came to speak with her, and she signed an affidavit admitting that she had lied at Mr. Cross’s trial. *Id.* at 28:16-23; 31:17-33-3. She testified the information she gave Mr. Dudley was the truth, and he had not made up the information or pressured her. *Id.* at 104:15-20; 102:22-104:6. According to Shamica, she had a change of heart when Mr. Dudley approached her and asked about her prior involvement in the case. She finally decided to tell the truth because she felt bad. Shamica testified, “I feel really awful because I was told to say things that weren’t true, which could put me in perjury.” *Id.* at 65:21-25. “I was told to lie, and the things that I know now, if I knew them then, I would have never even said anything because it wasn’t nothing they could do to me as a kid. But, hey, I – I didn’t know that, you know?” *Id.* at 104:21-105:3.

**4. Victoria Caldwell Admitted She Lied at Mr. Cross’s Trial and Subsequently Invoked Her 5<sup>th</sup> Amendment Right Against Self-Incrimination at the Hearing<sup>9</sup>**

Victoria Caldwell was properly subpoenaed to appear in court on November 25, 2025, to give testimony, but failed to appear. Att. 3, 11/25/25 Trans., 8:6-10; 10:16-23; 12:24- 13:23; 14:1-4. Victoria claimed she was in the hospital after suffering a mini stroke and would appear the following day if released from the hospital. *Id.* at 36:15-25. On the morning of November 26, this Court spoke with Victoria on the record and directed that she was to be present for the proceedings in order to testify. Att. 2, 11/26/26 Trans., at 6:18 – 7:8. Victoria advised she would arrive at court in the late afternoon. *Id.* at 8:10-14.

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<sup>9</sup> See Argument IV for the reasons why Victoria’s out-of-court recantations are admissible and should be considered substantively by this Court.

When Victoria arrived, this Court reminded her there may be legal consequences to giving testimony at the hearing different from what she gave at Mr. Cross's trial. *Id.* at 328:1-20. Victoria stated she had consulted with an attorney and had received legal advice. *Id.* at 328:22- 329:2. This Court placed her under oath. *Id.* at 329:3-7. Victoria answered several non-incriminating questions and authenticated her voice in a recording from August of 2023, but she quickly invoked her Fifth Amendment right to remain silent once she was asked to recall events surrounding Jessica Currin's murder. *Id.* at 335:1-18. When asked whether she knew Mr. Cross in July of 2000, Victoria declined to answer and invoked her Fifth Amendment privilege. *Id.* at 335:19-21. Victoria then told the Court she intended to invoke her right to remain silent to every question involving the critical issues, and she was released. *Id.* at 336:4-6; 337:4-21.

**a. Victoria Caldwell Authenticated the Phone Call Wherein She Admitted to Lying at Mr. Cross's Trial and Being Threatened by Law Enforcement**

Before she invoked her Fifth Amendment right against self-incrimination to any questions, Victoria authenticated a recording of the August 20, 2023 phone call with Mr. Kenneth Nixon, a KIP volunteer, wherein she admits to lying at Mr. Cross's trial. An audio clip of the call was played and Victoria stated she recognized the female voice on the clip as her own. *Id.* at 333:1-5.<sup>10</sup>

During the call, Victoria told Nixon she was at a party next door to Derek Keeling's house and was not present when Jessica was killed. She stated, "I was never there. I've never, this is bizarre, but I was never there. I never witnessed anything, okay?" Def. Ex. 8, 8/20/23 Trans., at 1. Victoria said she was initially brought into the murder investigation because her mother was a drug addict who was buying drugs from Mayfield Police Department ("MPD") Assistant Police Chief,

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<sup>10</sup> The recorded phone call and an unofficial transcript were admitted at the hearing as Defense Exhibit 8.

Ronnie Lear. *Id.* She was told what to say throughout the investigation by law enforcement, including Ronnie Lear and the KBI. *Id.* Specifically, she recalled being threatened on the elevator at the Drury Inn and told that law enforcement would “stick a needle in her arm.” *Id.* Victoria stated that Lee Wise was the main officer who gave her the information to repeat during interviews and that Scott Southerland was involved. *Id.* at 2. She also stated Sam Steger had threatened her. *Id.* at 2.

Victoria said during the phone call that she and O’Neil remain in close contact and that he often gives her money—always cash. *Id.* at 3. She explained that they are still in contact because they have a son together. *Id.* at 3-4. She confirmed that she and O’Neil became involved sexually during Mr. Cross’s case. *Id.* at 8. Victoria also confirmed that the diary used as an exhibit at Mr. Cross’s trial – implicating him - was fabricated. She stated that it was written the same day the KBI came to North Carolina to pick her up (and not in 2000 as alleged). *Id.* at 5. She claimed the KBI officers knew it was forged and told her to write it. *Id.*

When Nixon asked Victoria how she knew Mr. Cross, she stated, “I don’t know him. I never met him a day in my life.” *Id.* at 6. She only knew his name because the police, specifically Lee Wise, gave it to her. *Id.* Victoria explained police and prosecutors repeatedly reach out to her to ask with whom she has been in contact about the case. *Id.* at 7. She told Nixon, “They want me to tell the same story, and I refuse to tell the same story and I don't want to keep telling, because I can't remember. You can't remember a lie. It's easy to remember the truth and tell a lie, right. I can't remember everything I said...” *Id.* at 8. Although she shared information with Nixon over the phone, Victoria did not want to write an official statement for fear of what the police or prosecution might do to her. “They will make me disappear, I believe it. They will relocate me so fast you don’t understand.” *Id.*

**b. Kenneth Nixon Testified Regarding the Content of and Circumstances Surrounding the Phone Call with Victoria**

Kenneth Nixon, an employee with a non-profit organization in Michigan, was contacted by Mr. Cross's former counsel in 2023 and volunteered to assist with witness communications in Mr. Cross's case. *Id.* at 296:8-24. Nixon did not know Mr. Cross at the time and was not compensated for his assistance in the case. *Id.* at 297:2-3; 316:20-24.

In 2023, Nixon traveled to Ohio to speak with Victoria Caldwell about Mr. Cross's case. *Id.* at 297:9-17. Nixon recalled that immediately upon telling Victoria he was there to talk about an old case in which she was involved, she picked up her phone and called Robert "Bob" O'Neil. *Id.* at 297:18-298:7. O'Neil answered. Victoria put the call on speaker so Nixon could hear O'Neil when he told Victoria not to talk to anyone about the Quincy Cross case and to ask Nixon to leave the property. *Id.* at 298:12-25. Nixon spoke to O'Neil briefly, who told him repeatedly to leave Victoria's home and gave Nixon his phone number. *Id.* at 299:22-24. Nixon left the property as requested. *Id.*

Not long after Nixon went to Victoria's home, she called him and stated that she wanted to talk about the case. *Id.* at 300:10-19. They set up a date and time to meet in a public place, but Victoria did not show. *Id.* at 301:1-2. However, she reached back out to him to reschedule the meeting, and again, failed to show up. *Id.* at 301:2-5. Then, on August 20, 2023, Victoria reached out to Nixon via Facebook and stated she was ready to talk and asked that he record the conversation. *Id.* at 303:1-20. Shortly after sending the message, Victoria called Nixon on the phone. *Id.* During that call, Victoria recanted her trial testimony and admitted what she testified to

at Mr. Cross's trial was a lie. *Id.* at 305:4-9.<sup>11</sup> Additionally, Victoria made allegations of inappropriate sexual contact by investigators, specifically stating that she had a child by former KBI detective O'Neil. *Id.* at 308:14-309:4; Def. Ex. 11. She also told Nixon that she had been threatened by law enforcement to make statements against Mr. Cross. *Id.* at 309:9-20. Aside from Nixon's initial visit to Victoria's home, all other contact was initiated by Victoria via phone or Facebook Messenger. *Id.* at 310:13-22.

**c. Victoria Caldwell Stated in a Separate Phone Call She Had Information to Exonerate Mr. Cross**

James Dudley, an investigator for the Exoneration Project, testified that he had personally served Victoria Caldwell at her home in Ohio with a subpoena to appear for the hearing. Att. 3, 12/18/25 Trans., 287:15- 288:16. Two days later, on November 20, 2025, he was present when Amy Staples, counsel for Mr. Cross, received a phone call from Victoria. *Id.* at 288:20-21; 289:21-24. Staples put the call on speaker so Dudley could hear the conversation. *Id.* at 289:13-16. During the call, Victoria told Staples she had information that could exonerate Quincy Cross, and she could deliver it on a silver platter. *Id.* at 290:3-5. However, Victoria wanted Staples to grant her immunity, to which Staples responded she did not have the authority to do so. *Id.* at 290:8-11. Victoria stated she wanted to testify at the hearing but claimed she had a recent meeting with the Attorney General's office in which she was told she would go to jail if she appeared to testify. *Id.* at 290:14-21.<sup>12</sup>

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<sup>11</sup> A recording of the phone conversation was entered at the hearing as Defense Exhibit 11. An unofficial transcript of the conversation was attached to Mr. Cross's CR 60.02 motion as Movant's Exhibit 2.

<sup>12</sup> The Court sustained the Commonwealth's objection on the basis of hearsay. However, Victoria previously made herself unavailable when she invoked her Fifth Amendment right at the hearing on November 26, 2025, therefore making her out of court statements against interest admissible as an exception to the hearsay rule. KRE 804(b)(3). *See*, Argument IV.

As this Court held in its October 29, 2025 Order, “[Mr. Cross’s] case is distinctive in that the conviction is based almost entirely on witness testimony.” Order at 7. The same logic from *Bedingfield* can be applied here, where the Kentucky Supreme Court held, “it cannot be overlooked that in Appellant’s initial trial, all other arguments were enhanced and corroborated by the supposition that the sperm belonged to Appellant. Indeed, this theme was central to the Commonwealth’s prosecution. Because the technology was not available for Appellant to refute that claim, Appellant was left to rely on his word against that of the Commonwealth. This new evidence is substantial, if not pivotal...” 260 S.W.3d at 815. In Mr. Cross’s case, all of the Commonwealth’s arguments were enhanced by the supposition that the witnesses, specifically Vinisha and Victoria, were telling the truth on the stand. In fact, as this Court noted, witness testimony provided the only evidence linking Mr. Cross to the crime. But because the multiple witnesses did not recant until years after the trial, Mr. Cross, like *Bedingfield*, was left to rely on his word against the word of the alleged eyewitnesses at trial. Because the witnesses have now recanted and deny the eyewitness account, their recantations are substantial, if not pivotal, and provide this Court with sufficient evidence to grant Mr. Cross a new trial. *Id.*

**B. Further Evidence Supporting the Unreliability of the Testimony at Trial and Corroborating the Multiple Witness Recantations**

A plethora of testimony was presented at the hearing casting doubt on the truthfulness of the perjured trial testimony. As explained above, this Court must consider that evidence when determining “the genuineness and good faith of the repudiations” and “the probability that the conviction would not have resulted if the truth had been revealed.” *Anderson*, 168 S.W.2d at 54; *Shepherd*, 101 S.W.2d 918; *Mullins*, 375 S.W.2d 832. When considering the totality of that evidence, detailed below, a pattern is revealed: law enforcement did whatever they could to get witnesses to point the finger at Mr. Cross, including feeding information to them; threatening

them and their loved ones with jail, lethal injection, and having their children removed from their care; yelling at and degrading them; and repeatedly rejecting their multiple attempts to tell the officers they personally knew nothing about the murder or Mr. Cross's alleged involvement. Whether the officers engaged in intentional misconduct or simply employed "techniques" (or poor interviewing skills) to elicit information during the interviews and interrogations they conducted, the results are the same: the officers' actions resulted in multiple young, scared women feeling pressured and coerced into giving fabricated statements and perjured trial testimony.

### **1. KSP and KBI Conducted a Joint Investigation into Jessica's Murder**

Robert O'Neil, a former employee of the Attorney General's Office (AG) in the KBI unit, testified that he and Agent Lee Wise were assigned to the Jessica Currin case in 2006. Att. 3, 12/18/25 Trans., 16:7-8. It was O'Neil's first murder investigation. *Id.* at 64:23-25. Wise specialized in public fraud cases, including election and food stamp fraud. *Id.* at 166:21-167:4. Wise testified he and O'Neil were brought into the investigation because they are black, and there was distrust in the community with white officers. *Id.* at 168:9-21.

To get up to speed, O'Neil and Wise reviewed the files and talked with KSP Detectives Michelle Kent, Sam Steger, and Brent White ("KSP Detectives"). *Id.* at 16:9-24; 17:2-4; 20:24-25:2; 87:16-19. Later, the KSP Detectives "teamed up" with O'Neil and Wise in conducting some interviews, though the KBI agents performed "the majority of the interviews" themselves. Att. 2, 11/26/25 Trans., 346:21-347:2; Att. 3, 12/18/25 Trans., 16:16-17:2-4; 87:20-88:1; 169:264:4-20.

### **2. Evidence and Testimony from Law Enforcement Casting Doubt on the Truth of Vinisha Stubblefield's Trial Testimony**

Testimony at the hearing from law enforcement officials and a review of the techniques employed during the interrogations support Vinisha Stubblefield's testimony that she lied at trial and the reasons she provided for doing so. These reasons include that the officers, whether

intentionally or unintentionally, and both on and off the record: fed facts of the investigation to her, repeatedly made statements that Vinisha reasonably felt were threatening<sup>13</sup>, and brow beat her into feeling as though she had no other choice but to finally succumb to the pressure and give the officers the “story” they repeatedly demanded to hear.

On September 20, 2006, the agents interviewed Vinisha at the Graves County Commonwealth’s Attorney’s Office. Att. 3, 12/18/25 Trans, 90:8-11. As O’Neil acknowledged, by that time, the agents had reviewed the investigative files, talked with the KSP Detectives, and knew the individuals law enforcement *believed* were involved in Jessica’s murder. *Id.* at 21:5-16; 215:23-25. As White testified, the agents requested a synopsis “of what we knew as far as some of the players” involved. *Id.* at 265:18-20. That suspect list included Mr. Cross, who was on law enforcement’s “radar” from the inception of the investigation because he had been arrested for drug possession the morning after Jessica was last seen alive. *Id.* at 266:7-19. The agents were also aware of a party that had taken place at Chris Drive the night of Jessica’s death and had already formed the opinion before interviewing Vinisha that she and Jessica attended that party. *Id.* at 85:6-13.

By September 2006<sup>14</sup>, Vinisha had been interviewed no fewer than *sixteen* times by various law enforcement officials, had given sworn Grand Jury testimony, and had passed a polygraph

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<sup>13</sup> At the hearing, the AG asked Wise to distinguish “in his mind” the difference between an “unlawful threat” and “telling someone that any have participated in a crime that they could go to jail.” Att. 3, 12/18/25 Trans., 173:18-22. As discussed *passim*, whether the officers admit to “threatening” the witnesses or simply “informing” the witnesses of potential consequences does not change the end result: multiple witnesses *felt* so threatened by law enforcement, they provided false statements and perjured testimony against Mr. Cross.

<sup>14</sup> Both O’Neil and Wise conceded at the hearing they interviewed Vinisha at her mother’s home prior to September 20, 2006. Att. 3, 12/18/25 Trans., 90:12-17; 170:11-22; 208:9-17; 213:24-214:2. But, the investigative file is void of any documentation or audio of that interview – further supporting the material witnesses’ contentions that they were interviewed and spoken to by the

examination.<sup>15</sup> *See attached*, Appendix 1 (Vinisha timeline). Each time she maintained the same account: she had no personal knowledge of Jessica’s murder, the last time she saw Jessica, Jessica walked off alone after playing cards with Vinisha at Patrice Senter’s home, and Vinisha spent the night thereafter at Patrice’s. *Id.*; *see also*, Att. 3, 12/18/25 Trans., 91:12-21.

During the hour-long September interview, Vinisha repeatedly told O’Neil and Wise she did not know who killed Jessica and was not present when she was murdered. *See*, Def. EH Ex. 9, 47:21-48:7; 49:25-50:10; 58:14-31; 63:26-31; 80:8-29; 83:27-28. But, as they testified, the agents admittedly refused to accept that as the truth, having already formed the belief that Mr. Cross had killed Jessica and that Vinisha was involved.<sup>16</sup> Att. 3, 12/18/25 Trans., 222:13-16; 99:1-2. Accordingly, the agents used various interviewing techniques and tactics in an attempt to get that information from her.

When questioned at the hearing about the tactics used during their questioning of Vinisha, law enforcement gave contradictory testimony. Both O’Neil and Wise testified they never “threatened” a witness during this investigation and instead admitted to only “putting before them the consequences of their actions” and “what potentially could happen to them.” Att. 3, 12/18/25 Trans., 100:25; 101:11-19; 187:20-23. But, O’Neil also admitted that Vinisha “probably got

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agents off record. When asked about the alleged recording, Wise could not confirm turning it over to prosecutors and instead testified that he “probably” did so. *Id.* at 209:13-16.

<sup>15</sup> Former KSP Detective Jamie Mills testified he was assigned in 2003 to investigate the Currin murder. Att. 2, 11/26/2025 Trans., 216:13-22. During the two years he worked the case, Mills had many interactions with Vinisha, interviewing her numerous times. *Id.* at 217:17- 24. Vinisha maintained “she watched [Jessica] walk away, talking about going down the street, going over a hill –” *Id.* at 218:3-8; 12-17. Mills also interviewed Victoria Caldwell. Victoria did not implicate herself or Mr. Cross in the murder. *Id.* at 219:14-22.

<sup>16</sup> Like Vinisha, Tamara Caldwell testified agents Wise and O’Neil refused to accept as true that she knew nothing about Jessica’s death. Att. 2, 11/26/25 Trans., 189:23-190:8. When Tamara refused to say something that was not true, the agents yelled at her, called her degrading names, threatened she would get the electric chair, and threatened she would never see her children again. *Id.* at 190:8-12.

threatened with the death penalty.” *Id.* at 109:5-7. He too admitted threatening to send Vinisha’s mom to jail on drug charges if Vinisha did not cooperate. *Id.* at 109:9-12 (only denying it “was said in that context”). And, agents repeatedly told Vinisha that she was going to end up in a jail cell with Mr. Cross if she did not “tell the story” they wanted to hear, promising she would go home if she told them their “truth.” Def. EH Ex. 9, 29:19-24; 30:2-5; 39:22-25; 52:26-31.

According to Vinisha and a review of the interview, the “truth” or “story” the agents demanded to hear back from her was one implicating Mr. Cross. Att. 1, 11/25/25 Trans., 44:14-45:11; 89:21-90:1 210:4-6; *see also*, Def. Ex. 9, 69:9-10 (O’Neil “You know that [Mr. Cross] killed Jessica, didn’t he? Vinisha: “I don’t know.”); 70:18-19 (O’Neil: “You know Q [Mr. Cross] killed Jessica.”). Announced O’Neil to Vinisha: “you got to choose the truth, or you got to choose to be with Q [Mr. Cross], and if you choose to be with Q, then you go to jail with Q.” *Id.* at 58:13-15.

O’Neil further admitted to using “tactics” to get Vinisha emotionally “heightened” to get “her to talk.” Att. 3, 12/18/25 Trans., 106:15-16. But, Vinisha had been talking; she simply was not saying what the agents wanted to hear. Illustrating that technique, the agents told Vinisha repetitively that she should be afraid of Mr. Cross because he killed Jessica, that she could end up dead like her, and that she could send Mr. Cross to jail – and therefore would be safe - if she told the “story.” Def. Ex. 9, 29:23-30:5; 46:16-31; 52:8-11; 53:23-24. They too told Vinisha that she would not be able to survive this without them, that her “crack-addicted” mother, whose love for drugs outweighed her love for Vinisha, would tell people where to find her, and that the agents were the only ones who could help save her – but only *if* she “gets on the program.” *Id.* at 67:13-24. When Vinisha still didn’t succumb to their pressure, the agents resorted to yelling at her,

demeaning her, telling her that she ruins everything she touches, is selfish, and is a liar. *Id.* at 46:2-3, 45:19-20; 49:16; 81:7 (Vinisha: “please don’t yell at me.”).

Wise, too, admitted to saying things to people during interviews to “solicit a response” so he could observe whether they are responding positively or negatively and from there, deduce whether they are “being truthful.” Att. 3, 12/18/25 Trans., 178:2-3.

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1 all it is. I mean, I can -- I've interviewed people and  
2 I say things in a -- and primarily I say them because I  
3 want to -- I want to solicit a response. Is it a  
4 positive response? Is it a negative response? If -- if  
5 I solicit a negative response, I know that there's  
6 something in this response that you're not truthful  
7 about or you're nervous about. If there's a positive  
8 response, I say to myself this is great because she's  
9 being truthful. This is called baseline establishing.  
10 I'm establishing a baseline with people that, when  
11 things are said or done, I can physically look at  
12 someone and see the difference in what's taking place.

*Id.* at 178:1-12.

Ironically, within just two minutes of his cross-examination, Wise reacted so negatively to questions about the interview techniques he employed in this case – calling into question the credibility of his testimony and further supporting the testimony of the recanting witnesses - the Court instructed him to listen to the questions asked and answer them. *Id.* at 197:11-14. Just seconds later, when Wise continued interrupting and speaking over defense counsel - angrily raising his voice and asking his own questions instead of giving answers - the Court admonished him. *Id.* at 199:4-20. When Wise immediately continued his negative behavior – even speaking over the Judge - the Court again admonished Wise and ordered a 10-minute recess so Wise could speak with the Commonwealth’s attorneys. *Id.* at 200:20-201:11.

The agents also gave contradictory testimony about Vinisha’s allegations (and that of other material witnesses) that when off record, they threatened her and provided her information to repeat. The record reveals the agents stopped the recording during the interview, sometimes with no explanation. *Id.* at 57:18-19; *compare* 44:22-23 & 62:3-4. Though he initially denied speaking to the witnesses off record “about the case,” O’Neil acknowledged there were times the agents turned off the tape and talked with Vinisha. Att. 3, 12/18/25 Trans., 112:5-6: 112:18-19. Wise could provide no reason why the recording was stopped at times. *Id.* at 226:14-17. However, when questioned about his suggestion to cut off the tape to ask Vinisha a question “off record” and have her repeat what he told her “for the tape,” Wise testified it was simply “an interviewing technique.” *Id.* at 177:23-25.

21 LW: Am I going to tell you something, you’re not a bad person. You can’t convince  
 22 me you are. Did you hear what I said? You can’t convince me you are. You  
 23 want me to cut the tape off and ask you this question, or you want me to let the  
 24 tape roll and ask you? I’m going to just ask it to you. Lean over here. I’m going  
 25 to whisper something to you, and I want you to repeat it, okay? When I whisper  
 26 it, I want you to repeat it for the tape. Can you do that? That’s called following  
 27 what?  
 28 VS: Orders.  
 29 LW: (inaudible) there you...come here. Repeat it.  
 30 VS: I couldn’t understand you. Who am I afraid of?  
 31 LW: Say it again.

Def. Ex. 9, 21-31.

At the hearing, the agents acknowledged they did not accept it when Vinisha told them repeatedly she did not know anything about Jessica’s death. Att. 3, 12/18/25 Trans., 30:1-4; 223:13-16. Instead, they told her over and over to “tell the story”—a “story” implicating Mr. Cross. *See*, Def. Ex. 9, 55:7-30 (excerpt of just 23 lines in 85-page where the agents asked and/or told Vinisha *ten* times to tell the story).

When questioned about their demands for Vinisha to repeat a story, the agents attempted to explain they wanted Vinisha to simply tell “the truth.” Att. 3, 12/18/2025 Trans., 220:18-19. But this contradicts Wise’s own recorded words to Vinisha where he told her a story “is something you tell your children and then put them to bed.” *Id.* at 221:20-25; *see also*, Def. Ex. 10, 245:1-3. As Wise conceded, a children’s bedtime “story” does not equate to telling a witness to “tell the truth.” *Id.* at 222:1-3. Eventually, Vinisha succumbed to the agents’ pressure and repeated what she heard others say about the murder, implicating Mr. Cross. *Id.* at 70:24-72:21; 81:5-23.

Dissatisfied with Vinisha’s consistent account of having no personal knowledge of Jessica’s murder, on March 27-28, 2007, O’Neil and Kent traveled to Marysville, Ohio to transport Vinisha to Mayfield for further interrogation. *Id.* at 22:25-23:1; *see also*, Att. 2, 11/26/25 Trans., 253:2-11. O’Neil and Kent talked to Vinisha until she finally agreed to go with them. Att. 3, 12/18/25 Trans., 24:2-10. Kent dropped off O’Neil in Louisville and traveled the remainder of the way to Mayfield alone with Vinisha. *Id.* at 24:10-15. Kent acknowledged it was “quite a long trip.”<sup>17</sup> *Id.* at 236:17-18.

Thereafter, Kent and Steger interrogated Vinisha. Att. 2, 11/26/25 Trans., 237:9-11; 239:3-6. Though Kent testified she knew nothing about the facts of the case before interviewing Vinisha, her testimony contradicts that of agents who testified Kent was one of the KSP Detectives with whom they consulted to get up to speed. *Id.* at 251:1-5; Att. 3, 12/18/25 Trans., 16:3-17:4; 20:24-25:2. Supporting Vinisha’s contention that Steger fed her information to repeat, Steger admitted he “could have” told Vinisha what other witnesses had said in the investigation, as an “interviewing technique” and “factual tactic.” Att. 2, 11/26/25 Trans., 356:23-257:18.

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<sup>17</sup> Drivedistance.com indicates the distance between the two cities is 436 miles.

On April 30, 2007, Wise, O’Neil, Kent, and Steger<sup>18</sup> all participated in yet another interrogation of Vinisha. Def. EH Ex. 10. Though Vinisha was in custody at the Christian County Jail, the officers transported her to the Drury Inn in Paducah for questioning. *Id.* at 28:13-19; 3:24. Further supporting Vinisha’s accounts of investigators talking with her about the case off record and contradicting O’Neil’s hearing testimony, O’Neil acknowledged during the interrogation to talking with Vinisha about “a lot of people” “before we actually started recordin’ this.” *Id.* at 7:7-9. He noted they were “probably gonna go over all of ‘em again” before Wise immediately began asking questions about Tamara Caldwell. *Id.* at 7:16-29.

At the hearing, O’Neil admitted he and Wise shut off the cameras at times during the hours-long April 30, 2007 interrogation of Vinisha.<sup>19</sup> Att. 3, 12/18/25 Trans, 27:22-23; 28:4-5. He too admitted that the agents “jogged her memory” by telling her “who else was there, or what happened, or what color a car was, or so forth and so on.” *Id.* at 29:14-17. The agents also told Vinisha that her interrogation was an “open book test” and that all the answers were there for her in the books: she just had to search and find them. *Id.* at 128:15-21; 130:11-15; Def. Ex. 10, 112:8-22. O’Neil testified “the books” to which they were referring were “the investigative files, what happened, what people said” and that they “always had books there.” Att. 3, 12/18/25 Trans, 129:14-20. When Vinisha did not know the “answer” to a question Wise asked, Kent told Wise to

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<sup>18</sup> Brent White testified that he too was present at the Drury Inn during the interviews conducted there. Att. 3, 12/18/25 Trans., 274:14. Though he was “there for a few of those initial discussions,” he “was more or less coordinating the arrival and transportation of people to and from” the hotel why the other investigators were on the 6<sup>th</sup> floor of the hotel with the witnesses. *Id.* at 274:15-21; 276:4-5. White’s testimony contradicts that of O’Neil and Wise who testified the interviews were conducted in a conference room on the 1<sup>st</sup> floor and supports that of the witnesses who testified they were interviewed in a hotel room. *Id.* at 26:19-27:2; 184:1-20.

<sup>19</sup> The interrogation lasted 10 hours. Def. Ex. 10

write down<sup>20</sup> the answer for her. Def. Ex. 10, 305:13-23. When asked if the officers wrote down any answers for Vinisha during the interrogation, Wise responded, “I’m going to probably say no.” *Id.* at 237:16.

### **3. Evidence and Testimony from Law Enforcement Casting Doubt on the Truth of Victoria Caldwell’s Trial Testimony**

The agents were questioned about their interactions with Victoria Caldwell, her perjured trial testimony, and the reasons Victoria stated for providing fabricated testimony. Like Vinisha and the other key witnesses who testified against Mr. Cross at trial, Victoria has alleged that she was not present for Jessica’s murder and was threatened by law enforcement to falsely implicate Mr. Cross. *See*, Argument II(A)(4)(a). She also alleged that she has a child with O’Neil. *Id.*

At the hearing, O’Neil testified that he and Wise conducted a phone interview with Victoria before traveling to California where they interviewed her twice at a hotel. *Id.* at 30:23-31:17; 32:7. In between the two interviews, they transported Victoria to the Santa Barbara Police Department for a polygraph examination. *Id.* at 32:17-20. Thereafter, the agents admittedly questioned Victoria in the car – off record - during which she allegedly confessed to being present when Jessica was killed. *Id.* at 33:6-13. At the conclusion of Victoria’s interviews in California, the agents determined they “needed to keep her safe” and “confidential” and declared her a “protected witness.” *Id.* at 34:23-25.

Victoria had been interrogated multiple times by different agencies before the KBI took over the investigation.<sup>21</sup> O’Neil testified that Victoria was a “troubled kid” and admitted he and

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<sup>20</sup> Mr. Cross does not allege law enforcement officers provided a written “script” or “narrative” to the material witnesses to follow. Instead, the contention is, and witness testimony supports, officers *repeatedly* - both on and off record - told the witnesses information they wanted the witnesses to repeat implicating Mr. Cross.

<sup>21</sup> A timeline of Victoria’s numerous statements to law enforcement is attached as Appendix 2.

Wise did what they could to “establish a rapport with her.” Att. 3, 12/18/25 Trans., 36:2-7. He denied ever having sex with her or having a child with her – as Victoria alleged in a 2023 call – but, Wise admitted to having heard years ago the allegation that O’Neil and Victoria shared a son. *Id.* at 38:38:18-20, 240:1-23. Wise testified on one hand that the agents’ interactions with Victoria were “totally professional,” yet on the other, they were like “father figures” to her, even encouraging her to get therapy. *Id.* at 191:5; 191:14-19.

Though O’Neil attempted to downplay the closeness of his relationship with Victoria, O’Neil admitted to speaking with Victoria multiple times over the past twenty years. *Id.* at 37:14-17. And, seventeen years after the completion of Mr. Cross’s trial, Victoria and O’Neil each had the other’s number programmed in their phones. *Id.* at 73:1-5. O’Neil and Victoria have remained close enough over the past two decades that when Mr. Nixon arrived at Victoria’s house in 2023 to inquire about her trial testimony, Victoria immediately called O’Neil to ask permission to speak about the case. *Id.* at 297:18-298:7. O’Neil told Victoria not to speak to anyone about the case and told Mr. Nixon to leave the property. *Id.* at 298:12-25; 72:21-73:13.

At the hearing the AG introduced audio recordings of portions of two calls that O’Neil and Victoria had in the days leading up to the hearing (for which Victoria initially failed to show) and elicited testimony about a third unrecorded phone conversation that occurred in December 2025, right before she ultimately testified. *Id.* at 41:5-51:6; 52:4-54:18; 55:9-17. During the 17 minutes of the September 2025 conversation that was disclosed, O’Neil fed Victoria several “explanations” for why her previous statements and testimony did not line up with the evidence or her own prior statements, and why she said she had a child with O’Neil. *Id.* at 41:5-51:6; *see also*, Comm. EH Ex. 9. The explanations provided by O’Neil to Victoria included: a) that Victoria was only 16 when the murder occurred; b) she spent six years “trying to forget about it” so there were things

“you wouldn’t remember;” and c) she did not trust anyone in the Mayfield Police Department because “that department was corrupt.” *Id.* at 43:4-24. At the conclusion of the call, Victoria informed O’Neil he and Wise “had taught her well.” *Id.* at 133:13-15.

When Victoria called O’Neil on November 20, 2025, asking for advice as to how to testify at the hearing - after being subpoenaed and just five days before she was to provide testimony at the hearing about her August 2023 recantation - O’Neil reminded her, “you know what you testified to in court, you know? That’s all I can tell you....talk with your attorney and follow his advice, you know?” Att. 3, 12/18/25 Trans., 53:16-19; *see also*, Comm. Ex. 10. What Victoria had testified to in court – that Mr. Cross killed Jessica – is the perjured testimony she admitted in 2023 to being manipulated and pressured into by the officers. Additionally, O’Neil admitted to contacting Victoria himself in 2023 to “see if we could get Victoria” to participate in an episode of “Murder in the Heartland.”<sup>22</sup> *Id.* at 77:5-9.

Supporting Victoria’s statement that law enforcement provided her information to repeat at trial is O’Neil’s own trial testimony. *See*, Def. Ex. 8, 8/20/23 Trans., at 1. There, O’Neil testified that “because of [Victoria’s] inability to recall certain events, it took some time to make her abreast of incidents that happened.” Att. 3, 12/18/25 Trans., 136:19-24. At the hearing, O’Neil admitted that because her “memory was fuzzy,” law enforcement had to tell her circumstances during the investigation surrounding the events in question. *Id.* at 137:13-19.

#### **4. Evidence and Testimony from Law Enforcement Casting Doubt on the Truth of Shamicia Powell’s Trial Testimony**

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<sup>22</sup> O’Neil testified at the hearing that he prides himself on his credibility and integrity. Att. 3, 12/18/25 Trans., 39:19-20; 79:22-24. Yet, in this episode, O’Neil stated falsely that Jessica had a “chunk of hair in her hand when her body was found at the middle school.” When confronted about the fact that *no hair was found in Jessica’s hand*, O’Neil first testified that he “wasn’t going to comment.” *Id.* at 139:19-140:3. He further testified he was not giving sworn testimony during that show and that “it was just something I did to get some facts out about the case.” *Id.* at 139:10-14.

Sam Steger testified that he interviewed Shamica Powell two times. Att. 2, 11/26/25 Trans., 320:19-21. He admitted he first spoke with Shamica in 2005 at the high school, and the two were alone during that interview. *Id.* at 320:24-321:5. Shamica was only 15 or 16 at the time. *Id.* at 16:1-3. He next interviewed Shamica at an apartment three years later right before Mr. Cross's 2008 trial. *Id.* at 321:19; 323:12-13. Once again, Steger testified he and Shamica were alone. *Id.* at 323:21-23. It was then that she implicated Mr. Cross. *Id.* at 322:4-19.

Supporting Shamica's testimony, Steger admitted to providing "factual" details to her during the interviews, telling her what other witnesses had said – it was an "interviewing technique." *Id.* at 356:23-357:4. And, though he testified he never talked to Shamica off record and that his conversations with her were all recorded, the record reveals otherwise. *Id.* at 355:17-25. During his February 2008 interview of Shamica, Steger references information Shamica allegedly provided earlier in the conversation that is not in the recorded interview.<sup>23</sup> *Id.* at 101:7-20; *see also*, Comm. Ex. 3, 1:21. Additionally, Wise admitted it was possible he told witnesses in the case that their children would be removed from their care, as Shamica testified. Att. 3, 12/18/25 Trans., 230:13-18.

##### **5. Evidence and Testimony from Law Enforcement Casting Doubt on the Truth of Patrice Senter's Trial Testimony**

The agents were questioned about Patrice Senter's hearing testimony that the KBI bullied her and threatened to put her in jail preventing her from being in her child's life if she did not give a false statement and perjured testimony indicating Vinisha left her home on the night of Jessica's murder. *See*, Att. 2, 11/26/25 Trans., 294:8-295:4. Wise testified he "barely" remembered interviewing Patrice, yet in spite of that poor memory, he emphatically denied "threatening"

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<sup>23</sup> Shamica testified that not all her conversations with law enforcement were recorded. *Id.* at 17:13-19.

Patrice. Att. 3, 12/18/25, 192:8-13. But, when questioned as to whether he had ever told a witness in this case that he would have their children removed from their care – as Patrice and Shamica testified to at the hearing and Rosie Crice<sup>24</sup> testified to at the 2008 trial - he admitted it was possible because “that’s my job.” *Id.* at 230:13-18. As Wise explained, he “came from a position” where he “controlled all public assistance” in Kentucky. *Id.* at 230:4-5. Accordingly, if he saw “anybody doing anything illegally by failing to do something, report, or having their children there, drawing fictitiously” – even if just in Kroger – “these are things that could maybe be said to her that – you might be in trouble.”<sup>25</sup> *Id.* at 230:6-231:1.

#### **6. Jeremy Adams’ Confessions While in Jail Casts Doubt on Mr. Cross’s Conviction**

Mr. Darryl Montgomery testified at the hearing regarding Jeremy Adams’ confession while in jail that he had killed Jessica Currin. Montgomery testified that he met Adams in the McCracken County jail around 2000. Att. 2, 11/26/25 Trans., 120: 3-19. Montgomery recalled that Adams was often loud, and he would hear him talking several cells down. *Id.* at 121:9-14; 123:2-10. He recalled a specific conversation with Adams wherein Adams stated he was probably going to be

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<sup>24</sup> Rosie Crice testified for the Commonwealth at trial. When called in the defendant’s case in chief, Crice recanted her previous trial testimony in which she said Mr. Cross had threatened her. 4/4/2007 Trial Video, 8:49:20, 9:29:50. She testified that during questioning at the Drury Inn, Wise and O’Neil repeatedly told her to “shut up” when she told them she knew nothing about Jessica’s murder, they told her “you know what we want to hear,” and they threatened her with capital murder and to take her kids away from her if she did not tell them what they wanted to hear. *Id.* at 9:21:20-9:22:30. The agents “shut off” the camera multiple times during the interview. *Id.* at 9:22:47. The agents would not accept the truth. *Id.* at 9:29:40. And when she attempted to tell the prosecution the truth before trial, Scott Sutherland told her not to “bullshit the jury” and reminded her of her previous statements. *Id.* at 9:28:22.

<sup>25</sup> At Day 2 of the hearing, on November 26, 2025, Patrice testified specifically that the KBI told her if she did not say Vinisha left her home that night she would “be in trouble.” Att. 2, 11/26/25 Trans., 313:1-9. Though Wise had not been questioned about Patrice’s specific allegation that she “would be in trouble,” Wise used that exact terminology when explaining himself – possibly indicating he has a better memory of the interview than he testified to or that he was informed of what Patrice testified to previously in the hearing.

in prison the rest of his life because he had killed his “baby mama.” *Id.* at 121:15-22.<sup>26</sup> Adams told Montgomery that he heard his baby’s mother was pregnant by a police officer. Adams and the officer argued and then decided what they needed to do about it. *Id.* at 122:9-24. Montgomery testified that “pretty much the whole pod” was present during Adams’ confession. *Id.* at 123:7-10.

Montgomery did not tell anyone else about the confession around that time in jail because he had not yet heard about the murder, so he did not believe it. *Id.* at 124:4-22. Law enforcement never came to speak to Montgomery about Adams, and Montgomery did not approach law enforcement with the information. *Id.* at 125:21- 126:2.

Sometime later, around 2006 or 2007, Montgomery began dating Jessica Lyndsey, who was a close friend of Jessica Currin at the time of her death. *Id.* at 126:22- 127:5; 133:17-19. Montgomery recalled learning from Lyndsey that Jessica had been killed and burned by the middle school. *Id.* at 128:19-25. Montgomery assumed Lyndsey had to have been referring to the same murder as the one to which Adams confessed. *Id.* at 133:6-12. So, Montgomery told Lyndsey about Adams’ confession in the jail. Montgomery testified, “I said I remember it like yesterday. Jeremy was acting all silly in the jail, saying that he had done it...” *Id.* at 129:5-8.

Montgomery clarified that he knew Adams was referring to Jessica Currin as the woman he had confessed to killing because she was burned, and Adams had given details about her being burned. *Id.* at 132:1-19. Specifically, he recalled Adams stating his “baby mama” was burned and choked. *Id.* at 136:8-18.

Montgomery also recalled that around 2006 or 2007, two black KBI officers came to their home and requested Lyndsey go to the Drury Inn in Paducah for an interview. *Id.* at 138:1-24. One of the officers gave Lyndsey a card with the name Lee Wise on it. *Id.* at 139:3-14. Montgomery

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<sup>26</sup> Jeremy Adams and Jessica Currin shared a child who was an infant at the time she was murdered.

drove Lyndsey to Drury Inn and dropped her off while she was interviewed. *Id.* at 139:15-20. When he picked her up, she seemed nervous. *Id.* at 141:20-22. After learning that Mr. Cross was being investigated, Montgomery recalled again telling Lyndsey that Adams had confessed to him in jail. *Id.* at 142:1-9. Until around that time, Montgomery was under the impression that Adams had been convicted of the murder. *Id.* at 142:19-24.

Around 2012 or 2013, Montgomery met Mr. Cross at Northpoint Training Center. *Id.* at 143:20-24. They were housed near each other and at some point Montgomery heard Mr. Cross state he was locked up for something he did not do. *Id.* at 144:9-14. Montgomery asked about the crime and told Mr. Cross that Jeremy Adams had confessed to the murder while in jail with him. *Id.* at 144:19- 145:21. Years later, Montgomery was contacted by Mr. Cross's attorneys about what he may have heard from Adams. *Id.* at 146:20-25. Montgomery relayed that Adams had confessed to the murder while in jail. *Id.* at 147:11-13. In 2025, Montgomery received a follow-up visit from Mr. Dudley and Ms. Whitney Allen, one of Mr. Cross's attorneys, about drafting an affidavit regarding the previous information he had given. *Id.* at 148:9-14. Montgomery agreed and drafted and signed an affidavit regarding Adams' confession to him. *Id.* at 150:14-24.<sup>27</sup>

Montgomery testified the information contained in the affidavit was truthful, and that he had not been pressured or threatened to give the information. *Id.* at 151:6-16. When Montgomery was later approached by KSP Det. David Dick, an agent working for the Attorney General's office, he reiterated the same information that he had given Mr. Cross's attorneys. *Id.* at 152:15-20. Montgomery testified he had no loyalty to Mr. Cross and was telling the Court about Adams' confession because "[he] just feels like if you don't need to be in there and you are innocent, you should be out." *Id.* at 154:3-13.

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<sup>27</sup> Mr. Montgomery's affidavit was admitted at the hearing as Defense Exhibit 5.

**C. The Recanted Testimonies, Combined with Jeremy Adams' Confession to Montgomery, Would Probably Change the Result at a New Trial**

Although the jury at Mr. Cross's trial heard Vinisha and Victoria gave inconsistent statements throughout the investigation, the jury *did not* hear Vinisha, Victoria, Patrice, or Shamicia testify *unequivocally* that they had lied at trial about having knowledge of and being involved in Jessica's murder and rape, exculpating Mr. Cross. The testimony from the material witnesses that they gave perjured testimony at Mr. Cross's trial because they were coerced and felt pressured to do so alone provides this Court with sufficient evidence to vacate Mr. Cross' conviction. Like the Kentucky Supreme Court held in *Spaulding*, a conviction obtained through *wrongful information* can be a reason of extraordinary nature justifying relief. *Commonwealth v. Spaulding*, 991 S.W.2d 651, 657 (Ky. 1999) (emphasis added).

Further, the jury never heard from Montgomery or his account of Jeremy Adams' confession to killing Jessica Currin just months after she was murdered. Montgomery gave consistent information to KIP attorneys and to KSP Det. Dick, who approached him before the hearing. *Id.* at 152:15-20. Montgomery testified he had nothing to gain by telling the Court about Adams' confession and was doing so because if Mr. Cross "[is] innocent [he] should be out." *Id.* at 154:1-13. KIP counsel presented Montgomery's statement once it was discovered. Therefore, Adams' confession to Montgomery is now presented to this Court as credible, favorable, new evidence that should be heard by a jury. CR 60.02.

Had the jury heard Montgomery's account of Adams' confession and the multiple witnesses recant their perjured testimony and provide the truth – that they did not know Quincy Cross, did not witness or participate in Jessica's murder, and made false statements against innocent people because of threats and coercion from law enforcement—there is a “probability that introduction of truth ‘would, with reasonable certainty, have changed the verdict or that it

would probably change the result if a new trial should be granted.” *Spaulding*, 991 S.W.2d at 657 citing *Jennings v. Commonwealth*, 380 S.W.2d 284, 284 (Ky. 1964); see also, *Harris*, 250 S.W.3d at 640-41. As in *Bedingfield*, the numerous items of new evidence Mr. Cross now presents substantially impacts the testimony of multiple material witnesses, is manifest to his conviction, and would have probably induced a different conclusion by the jury had it been heard. *Bedingfield*, 260 S.W.3d at 810.

**D. When Determining the Credibility of the Recantations, the Court Must Consider the New Evidence in Totality with All Other Facts in Evidence, and the Influences and Motives of the Perjured Testimony and Recantations**

When determining whether Mr. Cross received a fair trial and is entitled to a new trial, this Court must consider the newly-recanted testimony in totality with the other facts in evidence. In *Graham v. Commonwealth*, a post-conviction case in which Mr. Graham submitted newly discovered evidence supporting his innocence, the Court of Appeals held that, “weighing *all of the facts in evidence* is precisely what the trial court *must* do in order to find whether the new evidence would result in a different outcome.” *Id.* at 771 (emphasis added). In affirming the trial court’s grant of relief, the *Graham* Court explained that, “the combination of newly discovered evidence, *along with evidence produced at trial and on Graham’s prior post-conviction motions*, convincingly demonstrates Graham did not receive a fair trial.” *Id.*

In accordance with *Graham*, this Court must consider the newly discovered evidence produced at the hearing (*i.e.* the recanted trial testimonies of Vinisha, Victoria, Patrice and Shamica, and the new testimony of Darryl Montgomery) in totality with and in light of all other facts in evidence, both from trial and from Mr. Cross’s prior post-conviction motions, including, but not limited to:

- 1.) That *five* material witnesses have now recanted their perjured trial testimony: Vinisha Stubblefield, Victoria Caldwell, Shamica Powell, Patrice Senter, and Rosie Crice (who

recanted her perjured trial testimony when recalled at trial and disclosed she had been paid by law enforcement) and that Tamara Caldwell has admitted her statements against Mr. Cross were too false;

- 2.) That the recanting witnesses faced the threat of perjury charges and incarceration for admitting at the hearing that they gave false trial testimony, were advised of the potential consequences, and yet, Vinisha, Shamica, and Patrice testified substantively and maintained they lied at trial;
- 3.) That Vinisha did not implicate Mr. Cross until *six years after the murder*, when she was taken from her home in Ohio to KSP Post 1 nine hours away, interrogated extensively and pressured by KSP Detectives Steger and Kent and subsequently KBI agents Wise and O'Neil. Portions of these interrogations often occurred off record when the recording would inexplicably stop;
- 4.) That Vinisha did not implicate Mr. Cross until after law enforcement threatened she would receive the death penalty and her mother would be criminally charged and imprisoned unless she implicated Mr. Cross;
- 5.) That Victoria did not implicate Mr. Cross in any version of events she told law enforcement until nearly *seven years after the murder* once she had begun receiving financial assistance from the State as a protected witness-defendant;
- 6.) That Shamica, who was just 12 years old at the time of Jessica's murder, did not implicate Mr. Cross until after giving multiple previous statements;
- 7.) That Patrice maintained for years that Vinisha stayed at her home and did not leave the night Jessica went missing;
- 8.) That Victoria initially implicated Jeremy Adams, and Adams was charged in 2001 for Jessica's murder;
- 9.) That Vinisha and Victoria previously made statements in 2012 that they lied at trial;
- 10.) The lack of *any* physical or biological evidence linking Mr. Cross, Jeffrey Burton, Tamara Caldwell, Austin Leech, Isaac Benjamin, Vinisha Stubblefield, or Victoria Caldwell to Jessica's body or the crime scene;
- 11.) The inconsistencies of Vinisha and Victoria's perjured testimony with the crime scene and physical evidence;
- 12.) The multiple factual inconsistencies between Vinisha and Victoria's trial testimonies;<sup>28</sup>

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<sup>28</sup> A chart of Victoria and Vinisha's inconsistent statements at trial is attached as Appendix 3.

- 13.) The vast changes within Vinisha and Victoria's own statements throughout the investigation;
- 12.) Law enforcement's use of coercive tactics and incentives, *i.e.*, financial payments and promises of reduced sentences, at the time of the statements inculcating Mr. Cross;
- 13.) Rosie Crice's admission to receiving undisclosed payments by law enforcement for assisting in providing false information implicating Mr. Cross and her ultimate recantation at Mr. Cross's trial, supporting a pattern of misconduct, and corroborating the recantations of Vinisha, Victoria, Patrice and Shamicia; and
- 14.) Jeremy Adams' confessions to Jessica's murder to multiple other individuals while housed in McCracken County jail around the same time as described by Montgomery, and Adams' failed polygraph examination.

Like in *Graham*, the new evidence in this case is contextualized by the evidence at trial and in Mr. Cross's prior post-conviction motions. Therefore, this Court should not consider the multiple witnesses' recantations, and Montgomery's testimony that Adams confessed to him, in a vacuum, but must consider these pieces of new evidence in totality with *all* other facts in evidence in determining whether the newly discovered evidence would probably change the result of a new trial if heard by a jury.

#### **IV. Victoria Caldwell's Out-of-Court Statements Against Interest Are Admissible and Must be Considered Substantively By this Court**

Under KRE 804(a)(1), a declarant is considered "unavailable" for purposes of the hearsay rules once a court has ruled they are exempted from testifying based upon a ground of privilege, including the 5<sup>th</sup> Amendment privilege against self-incrimination:

(a) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant:

- (1) Is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement. KRE 804.

After being called as a witness at the hearing, Victoria refused to answer multiple questions on direct-examination and invoked "her right to remain silent." This Court thereafter determined

she was exempted from testifying. Accordingly, Victoria's invocation of the Fifth Amendment privilege against self-incrimination made her unavailable as a declarant under KRE 804(a)(1). *See, Fisher v. Commonwealth*, 620 S.W.3d 1, 13 (Ky. 2021) (holding that a declarant may be unavailable to testify for purposes of KRE 804(b)(3) when she invokes her Fifth Amendment right to remain silent and avoid self-incrimination).

Pursuant to KRE 804(b)(3), which outlines the hearsay exceptions, Victoria's prior statements against interest are admissible because she became unavailable as a witness by invoking her right against self-incrimination:

(b) Hearsay exceptions. The following are *not excluded* by the hearsay rule if the declarant is *unavailable as a witness*:

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or *so far tended to subject the declarant to civil or criminal liability*, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability is not admissible unless *corroborating circumstances clearly indicate the trustworthiness of the statement*. KRE 804. (Emphasis added).

In *Fisher v. Commonwealth*, a case where a witness invoked her privilege against self-incrimination after admitting involvement in a murder to a cell-mate, the Kentucky Supreme Court held,

It was clearly against Harvey's penal interest to admit her own involvement in Folea's murder, *i.e.*, it was directly against her penal interest to admit complicity. And Harvey was unavailable to testify at trial, having invoked her right to avoid self-incrimination. The trial court found correctly within its discretion that the statements were corroborated by Goodman's testimony and by the totality of forensic and other circumstantial evidence. Particularly corroborating was the fundamental consistency between Fisher's and Harvey's independent accounts to their respective cell-mates. Harvey's statement fell within the exception of KRE 804(b)(3). This was not error for the trial court to admit Harvey's unredacted statements as evidence against Fisher. 620 S.W.3d at 11.

Like in *Fisher*, it was clearly against Victoria's penal interest to make multiple out-of-court statements admitting she lied at Mr. Cross's trial. And, like *Fisher*, Caldwell's out-of-court statements were corroborated by other witnesses' testimonies and by the totality of forensic and other circumstantial evidence. *Id.* Specifically, Rosie Crice recanted her testimony at trial and testified she was paid to provide false information and pressured to lie; Vinisha, Shamicia, and Patrice recanted their trial testimonies stating they felt pressured to testify falsely; and there existed no biological or forensic evidence linking Mr. Cross or any of the others to the crimes. Accordingly, both the Rules of Evidence and case law dictate this Court substantively considering Victoria's out-of-court recantation.

**V. Mr. Cross's Conviction, Resulting from a Trial Wherein Multiple Material Witnesses Committed Perjury, Violates Due Process and Constitutes Manifest Injustice Requiring Relief**

"The purpose of CR 60.02...is to ensure that those individuals convicted of a crime receive the due process that is afforded them under the law." *Clark*, 528 S.W.3d at 348. "It is axiomatic that the concept of due process requires us to 'observe that fundamental fairness [is] essential to the very concept of justice.'" *Lisenba v. Cal.*, 314 U.S. 219, 236 (1941). Reliability is the "linchpin" of due process analysis. *Manson v. Brathwaite*, 432 U.S. 98, 114 (1977).

A due process violation occurs where evidence is admitted, despite its lack of reliability, such that the admission of the evidence "is so egregious that it results in a denial of fundamental fairness." *Bugh v. Mitchell*, 329 F.3d 496, 512 (6th Cir. 2003). Such a violation means that trial errors led to a "failure to observe that fundamental fairness essential to the very concept of justice [so that the court] must find that the absence of fairness fatally infected the trial." *Lisbena*, 314 U.S. at 236.

A palpable error which affects the substantial rights of a party may be considered by the court on motion for a new trial or by an appellate court on appeal...and appropriate relief may be granted upon a determination that manifest injustice has resulted from the error. Ky. RCr 10.26. The required showing is probability of a different result or error so fundamental as to threaten a defendant's entitlement to due process of law. *Martin v. Commonwealth*, 207 S.W.3d 1, 3 (Ky, 2006).

Multiple witnesses have admitted, under oath, to giving false (*i.e.* unreliable), material testimony at Mr. Cross's trial. Specifically, Vinisha Stubblefield testified she lied at the trial-- she was *not* present when Jessica was killed, nor when her body was disposed. 11/25/25 Trans. at 68:12-17. Further, she did not know Mr. Cross in 2000 and did not meet him until 2005. *Id.* at 209:13-17. Likewise, Patrice Senter testified she lied at trial. Contrary to her trial testimony, Patrice testified Vinisha *had* stayed at her home the night of July 29, 2000 and never left, confirming Vinisha's alibi. 11/26/25 Trans., at 271:11; 312:23-25. Shamica Powell, too, testified she lied at Mr. Cross's trial. She testified, contrary to her trial testimony, that Mr. Cross did not ever confess to her, or while in her presence, that he killed Jessica. *Id.* at 26:4-9; 79:12-16.

The introduction of the multiple instances of admittedly unreliable and false testimony by Vinisha, Patrice, Victoria, and Shamica falsely inculcating Mr. Cross is egregious and deprived Mr. Cross of the fundamentally fair trial to which he was entitled. *Bugh*, at 512 (6th Cir. 2003). Because the recanting witnesses were key Commonwealth witnesses whose false testimony provided the jury "evidence" directly linking Mr. Cross to the crime, the absence of fairness fatally infected the entire trial. *Lisbena*, 314 U.S. at 236. Therefore, Mr. Cross's conviction violates due process constituting manifest injustice and cannot stand.

### CONCLUSION

Mr. Cross has presented a plethora of evidence casting doubt on the truthfulness of the testimony against him at trial. If a jury were to hear all the new evidence Mr. Cross now presents to this Court—that four, separate key witnesses against Mr. Cross, including the two alleged eyewitnesses, have recanted their trial testimony and admitted they lied at trial and the credible reasons for doing so –there is a reasonable probability the result would be different. Because “the purpose of CR 60.02...is to ensure that those individuals convicted of a crime receive the due process that is afforded them under the law,” this Court has the power to – and must - grant Mr. Cross the new, fair trial to which he is entitled. *Clark*, 528 S.W.3d at 348. Accordingly, Mr. Cross respectfully requests this Court grant his CR 60.02 Motion to Vacate the Conviction and order a new trial.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Reply has been electronically filed with the Graves County Circuit Court Clerk on this, the 13<sup>th</sup> day of February 2026, and electronically served to:

- Hon. Tyler Gill, Special Judge;
- Hon. Barbara Whaley, Asst. Attorney General;
- Hon. Richie Kemp, Asst. Attorney General; and,

And mailed via first-class mail to:

- Mr. Quincy Cross, Lee Adjustment Center.

*/s/ Whitney N. Allen*

Whitney N. Allen