

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT LAKE  
COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS

*Respondent-Plaintiff*

vs.

MARVIN WILLIFORD

*Petitioner-Defendant*

FILED

SEP 30 2022

Emi Carmona Weinstock  
CIRCUIT CLERK

Case No. 00 CF 1920

Hon. Judge Shanes,  
Presiding

**MOTION TO COMPEL DISCOVERY**

Now comes Petitioner, Marvin Williford, and respectfully asks this Court to Compel discovery pursuant to DNA testing conducted under 725 ILCS 116-3, Illinois Supreme Court Rule 417(d), and the United States Constitution. In support, Petitioner states:

**Introduction**

This Court previously presided over a third-stage evidentiary hearing, and request for post-conviction relief concerning Williford's claims of actual innocence and other constitutional errors related to his wrongful conviction for the North Chicago home invasion of Delwin Foxworth in 2000. This litigation included, among other things, the significance of DNA results that "hit" to a separate Waukegan rape and murder in 1992 as a result of DNA testing ordered pursuant to 725 ILCS 116-3. Given the association (via DNA) between the Foxworth home invasion and the Waukegan case in 1992, this court (via Judge Bridges) entered a preservation order to Williford regarding DNA in both cases.

Unbeknownst to Williford and, as the post-conviction petition was being litigated through the courts, the State requested additional DNA analysis from a private lab [REDACTED].<sup>1</sup> The State received reports from Parabon after this Court denied Mr. Williford relief and as the Case

<sup>1</sup> See [REDACTED]

was on appeal. Mr. Williford did not learn about these reports until long after they were requested and after they were received by the State.

And, pursuant to a confidentiality agreement with the State's attorney's office, counsel for Williford did not receive the [REDACTED] reports until February of 2022. Pursuant to that agreement, attached as Exhibit 1, Williford agreed not to conduct personal investigation of individuals potentially associated with the DNA results, and to keep the information contained in those reports strictly confidential. Williford has kept up with his end of the bargain—counsel have not revealed the confidential information in the [REDACTED] reports whatsoever.

Part of the agreement, however, required State provided updated discovery to Williford about the status of the on-going investigation. This includes interviews or "leads" about potential suspects, as well as additional DNA evidence, whether from [REDACTED] or elsewhere. In discussions with the State's Attorney, there is no dispute that Williford is entitled to potentially exculpatory material—*i.e.*, information about an alternative suspect—pursuant to Due Process and legal obligations derived from *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. And, as it relates to DNA evidence, Williford maintains that such discovery is required pursuant to Illinois Supreme Court Rule 417, demanding production of this information.

To date, Williford has received zero documents from the State about Waukegan PD's ongoing and "active" investigation and the [REDACTED] follow-up investigation since at least 2018—when the first [REDACTED] reports were issued.<sup>2</sup> Shockingly, while Williford has remained silent, and while he has not received any documents, the Chief of Police for the Waukegan Police Department has made public pronouncements about the ongoing investigation, claiming they had

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<sup>2</sup> The Northern Illinois Regional Crime Lab also conducted further DNA testing in this matter. Williford has received those reports, and the 417 material from that testing, as provided by this Court's order in July 2022.

a “strong viable lead” in August 2022, after refusing to provide Williford’s counsel any sort of documentation whatsoever. Fox32 News, *Holly Staker murder: New lead gives Waukegan police hope in solving cold case* (August 17, 2022), available at <https://www.fox32chicago.com/news/holly-staker-murder-new-lead-gives-waukegan-police-hope-in-solving-cold-case>.

Given all of this, it is Williford’s position that the State has not complied with the confidentiality agreement, or its obligations under the law to provide Williford with discovery of potentially exculpatory information, and to provide Williford with DNA-testing related information. The State disagrees, and has asked Williford to abide by the confidentiality agreement. That agreement requires this dispute be brought before this Court for resolution. Exhibit 1.

WHEREFORE, Petitioner Marvin Williford seeks an Order from this Court compelling discovery, and requiring that the State, within 7 days of its order, provide to Williford:

- (1) Any document, field not, report, transcription, photograph, witness interview, “lead” sheet, communication, or any other tangible document related to the ongoing investigation of either the murder of Holly Staker and/or the home invasion of Delwin Foxworth
- (2) Any and all communications to or from any member of the State’s Attorney’s Office and any employee, agent, or affiliate [REDACTED] between July 24, 2017 and the present;
- (3) Any and all reports, “lead” sheets, suspect queries, analysis of DNA, etc. to or from [REDACTED]

conducted by the State in regards to any evidence derived from the murder of Holly Staker and/or the home invasion of Delwin Foxworth;

- (4) Any other relief this Court believes is appropriate, including but not limited to sanctions and costs for Williford having been required to file this motion, to present it to this Court, and to demand discovery from the State informally for more than seven months.

Respectfully Submitted,

**Marvin Williford**

/s/David B. Owens

**By: David B. Owens**  
*One of Petitioner's Attorneys*

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