

**CIRCUIT COURT OF COOK COUNTY ILLINOIS
CRIMINAL DIVISION**

People of the State of Illinois,)	
)	
Respondent,)	
v.)	
)	
Victor Vera,)	89 CR 11039(04)
)	
Petitioner.)	
)	

**PETITION FOR RELIEF FROM JUDGEMENT AND TO VACATE CONVICTIONS
PURSUANT TO 735 ILCS 5/2-1401**

The above-captioned Petitioner files this consolidated petition for relief from judgement and to vacate his convictions pursuant to 735 ILCS 5/2-1401. In support of this request, Petitioner states as follows:

INTRODUCTION

1. After decades of advocacy and litigation in Illinois Courts, there is no longer a viable dispute: Former Chicago police detective Reynaldo Guevara was a corrupt police officer who routinely violated citizens constitutional rights when conducting homicide investigations.

2. Courts and juries alike have concluded that during his lengthy career Guevara engaged in a range of abhorrent and unconstitutional misconduct, including manipulating, threatening, and psychologically and physically coercing witnesses and accused suspects; perjury; and the outright fabrication of statements, police reports, and other evidence. *See People v. Martinez*, 2021 IL App (1st) 190490, ¶ 47 (“Given the staggering breadth of the materials regarding Detective Guevara’s involvement in other cases, we succinctly state that those materials reflected a penchant for manipulating witness identifications. Many of his victims were eventually

exonerated.”); *see id.* at ¶¶ 64, 80 (“Detective Guevara is a malignant blight on the Chicago Police Department and the judicial system” whose “toolbox of coercion was well-stocked with a wide variety of tools”); Ex. 2 (*People v. Demetrius Johnson*, 21 CC 3482 (July 27, 2021)), at 1 (“Mr. Johnson’s conviction was based upon evidence both fabricated and concealed by notorious homicide detective Reynaldo Guevara,” which at the time the court noted was the “21st conviction vacated owing to the misconduct of Guevara.”); Ex. 3 (*People v. Solache/Reyes*, 98 CR 12440, Dec. 13, 2017), at 40-46 (Judge Obbish, the last judicial officer to hear substantive testimony from Guevara after the State granted Guevara immunity in 2017, concluding that Guevara’s testimony was replete with “bald faced lies” and his “weak” general denials of physically coercing the Defendants confessions and feigned lack of memory were “not the testimony of a credible witness”); Ex. 4 (*Jacques Rivera v. Reynaldo Guevara et al.*, 12 C 4428) (civil jury finding Guevara liable for violating Jacques Rivera’s due process rights, conspiracy in doing so, and intentional inflicting of emotional distress and awarding \$17 million in compensatory damages and an additional \$75,000 in punitive damages against Guevara).

3. Since 2017, Guevara himself refuses to defend his own investigations, asserting his Fifth Amendment rights not to incriminate himself when asked any questions relating to his police work. Following well-established legal principles, courts, in turn, routinely have drawn adverse inferences against him and concluded Guevara did, in fact, do what he refused to deny. *See People v. Gibson*, 2018 IL App (1st) 162177, ¶ 5 (courts must draw an adverse inference when a police officer pleads the Fifth and refuses to defend his investigation unless there is a credible reason not to do so). *See e.g.*, Ex. 5 (*People v. David Gecht*, May 25, 2022), at 27 (“The fact that Guevara refused to answer and was nonresponsive to questions, suggests that his investigation in this case

was infected with the same pattern and practice of misconduct. Otherwise, he would have provided substantive answers to deposition questions regarding his investigation.”).

4. In turn, as a matter of due process, courts have repeatedly vacated convictions or granted other relief where Guevara-led investigations led to the ultimate convictions. *See e.g.*, *id.* at 15, 24, 27 (Judge Kenworthy finding that “Detective Guevara engaged in a pattern and practice of intimidating, threatening, and influencing witnesses in prior homicide investigations, . . . [and Guevara’s] pattern and practice of misconduct demonstrates [petitioner’s] due process claim”); Ex. 6 (*People v. David Colon*, July 8, 2022), at 31-32 (Judge Atcherson holding that relief was required as a matter of due process because “[i]t is now undisputed that former Detective Guevara, motivated by a desire to close cases regardless of whether he had found the actual perpetrator, engaged in multiple and repeated instances of police misconduct which took various forms”); Ex. 7 (*People v. Juan & Rosendo Hernandez*, 97 CR 21329, July 14, 2022) at 3-13 (Judge Rosado finding that Guevara conspired with Joseph Miedzianowski to violate the Hernandez brothers due process rights in a multitude of ways, including by manipulating witness identifications, fabricating police reports by intentionally misreporting alibi and other police statements, and committing perjury by falsely testifying about those same alibi statements); Ex. 8 (*People v. Gabriel Solache and Arturo Reyes*, 98 CR 122440, June 29, 2016), at 36 (Judge Obbish finding that “petitioners have made a substantial showing they were denied their constitutional right to due process”).

5. In total, Petitioner is aware of 44 individuals whose overturned convictions were tied to Guevara. Courts have granted relief from convictions in trials and pleas, alike, and whether the claims invoked the Post-Conviction Hearing Act or section 2-1401 of the Code of Civil Procedure, 735 ILCS 5/2-1401. *See e.g.*, Exs. 9-10 (*People v Marilyn Mulero & Madeline*

Mendoza, 92CR13088(02), (03) (Orders vacating convictions and pleas, including Mendoza’s via section 2-1401); Ex. 11 (*People v. Daniel Rodriguez*, 91 CR 13938. April 25, 2022) (Order granting section 2-1401 petition following trial conviction based on new evidence of Guevara’s misconduct); Ex. 13 (*People v. Thomas Kelly & Jose Tinajero*, 99 CR 06197, Jan. 31, 2024) (most recent Orders granting relief to Guevara victims, one of which was via 2-1401 and one via the Post-Conviction Hearing Act).

6. Since August 2022, the Cook County State’s Attorney’s Office has agreed that convictions tied to Guevara’s investigations are unreliable and should be vacated.¹ Petitioner is unaware of a single Guevara-related collateral petition the State has contested since August 2022, or that any court has ultimately refused to overturn. Well over a majority of those individuals were later awarded certificates of innocence. *See* Exs. 12, 14 (identifying 25 COIs in Guevara-related overturned convictions).

¹ On August 9, 2022, the Cook County State’s Attorney appeared in court and withdrew their objection to eight pending post-conviction matters in cases Guevara investigated. State’s Attorney Foxx noted as follows:

“[W]e cannot stand by these convictions based on the serious allegations of misconduct and findings of credibility against Detective Guevara.” *See* Dana Kozlov, Marissa Parra, *7 murder convictions linked to disgraced CPD Det. Reynaldo Guevara thrown out*, CBS2, Aug. 9, 2022, at <https://www.cbsnews.com/chicago/news/eight-murder-convictions-vacated-chicago-police-detective-reynaldo-guevara-cook-county-states-attorney-kim-foxx/>

“Even in cases where we still have questions about guilt, where we are not affirming actual innocence, the taint of detective Guevara is such that we cannot stand behind them any further.” *See* Melissa Segura, *Seven People Who’ve Served Decade In Prison Had Their Murder Convictions Over Alleged Abuse By a Chicago Cop*, BuzzFeed News, Aug. 9, 2022, at <https://www.buzzfeednews.com/article/melissasegura/guevara-chicago-murder-exoneration>.

“When it became clear that the allegations of misconduct against Guevara had significant merit, we could no longer stand behind these convictions where individuals spent decades incarcerated, devastating families and communities in Chicago. The Cook County State’s Attorney’s Office . . . will continue to address and investigate claims of wrongful convictions based on the evidence and the law.” *See* Press Release, *Cook County State’s Attorney Kimberly Foxx Announces Dismissal of Murder Cases Tied to Former Chicago Police Detective Reynaldo Guevara*, Aug. 9, 2022, at <https://www.cookcountystatesattorney.org/news/cook-county-state-s-attorney-kimberly-foxx-announces-dismissal-murder-cases-tied-former-chicago>

7. Like the others before him, Petitioner, too, deserves the same relief, as his arrest and subsequent conviction is clearly tied to a Guevara-led corrupt investigation. Guevara's role in securing the inculpatory testimony is clear from the police reports and testimony, yet Guevara now refuses to defend this very same investigation, asserting the Fifth Amendment. Ex. 1.

8. Given the supporting facts of this case, Petitioner is entitled to relief as a matter of due process like the dozens of Guevara-victims before them. This Court should vacate Petitioner's conviction.

FACTUAL BACKGROUND

A. Brief overview of the evidence of Guevara's pattern of misconduct

9. Many of the court decisions cited above document the conclusions about Guevara's range of misconduct. These conclusions, of course, are not in the abstract and are based upon overwhelming documentary and testimonial evidence, a portion of which is attached as exhibits to this pleading.

10. Guevara manipulates, threatens, coerces, and physically harms witnesses and accused suspects to give false statements and testimony. Exs. 15-41 (sworn testimony and affidavits alleging precisely that).

11. Guevara creates false police reports out of whole cloth and hides the real, accurate ones. *See* Ex. 42 (various materials in the Demetrius Johnson matter, showing that Guevara literally drafted a fake/false lineup report and hid the true, exculpatory lineup report to frame the 15-year-old Johnson, who has since been certified innocent).

12. Guevara fabricates witness and suspect statements, particularly as it relates to alibi evidence so that accused defendants cannot later defend against the false allegations in court. *See* Exs. 42-48 (examples of witness testimony and supporting materials showing that Guevara

fabricated police reports by purposefully mis-documenting alibi or other statements, thereby ensuring the accused cannot defend against Guevara's false charges—each of these examples are in cases of individuals who have been exonerated).

13. Guevara uses fake informants. Ex. 49 (statement and testimony of Francisco Vicente, who has now sworn under oath multiple times that Guevara manipulated and forced him to falsely implicate five different innocent individuals (Geraldo Iglesias, Robert Bouto, Jose Montanez, Armando Serrano, and George Pacheco), each of whom has been exonerated and/or received certificates of innocence).

14. Guevara conspires with notorious corrupt police officers like Joseph Miedzianowski, Ex. 7, or his long-time partner Ernest Halvorsen—the latter of which courts have also found has his own pattern of misconduct—to frame perceived threats to his corrupt police activities. Ex. 11; *see also* Ex. 64 (*People v. Reynaldo Munoz*, 85 C 12403, Feb. 22, 2022) (Judge Atcherson finding that Halvorsen has his own pattern of unconstitutional misconduct in a case Guevara is otherwise uninvolved). *See also* Exs. 50-51 (testimony from Fred Rock and Jondalyn Fields showing how Guevara conspired with Miedzianowski to frame Juan and Rosendo Hernandez, both of whom have been certified innocent); Ex. 52 (FBI Report documenting statement of Mohamed Omar, connecting Guevara and Miedzianowski); Ex. 53 (testimony of George Laureano, describing Guevara conspiring with Miedzianowski in a criminal conspiracy).

15. Accused suspects have repeatedly asserted these horrific allegations. *See e.g.* Exs. 15-21 (sworn testimony from seven men—all wrongfully convicted and six of whom have certificates of innocence—describing Guevara coercing their false confessions).

16. Victims and innocent third party witnesses corroborate it. *See* Exs. 22-32 (various sworn statements and testimony showing Guevara's manipulation of witness identifications, all in

cases where the accused was later exonerated, including, for example, Jose E. Melendez (Ex. 24), who was a crime victim yet contemporaneously insisted Guevara repeatedly tried to force him to implicate an innocent person); Exs. 33-41 (various other sworn statements corroborating Guevara's coercive questioning, threats, manipulation, and unconstitutional investigations in other cases).

17. Respected defense attorneys have witnessed it. Ex. 54 (testimony of attorney Kent Brody describing Guevara's manipulation and lies during lineup procedures in the Juan and Rosendo Hernandez matter—both certified innocent); Ex. 55 (testimony of James Saltouros indicating the same in the matter of John Martinez, who has been exonerated); Ex. 56 (testimony of John Deleon describing the lies and manipulation of Guevara in the Iglesias and Martinez matters—both of whom have been exonerated).

18. Felony review prosecutors' testimony has confirmed it. *See* Ex. 7, at 12 (court ruling in Hernandez case describing how felony review ASA testimony contemporaneously confirmed Guevara fabricated reports regarding the accused's alibis).

19. Whistleblowing police officers have testified and spoken up about it. Ex. 57 (testimony of former CPD detective William Dorsch, one of Guevara's partners in this very case, describing Guevara's manipulation of witness identifications that he personally witnessed); Ex. 58, at 194-96 (testimony of Ron Malczyk confirming that Guevara fabricated or lied in a report).

20. City of Chicago investigations have confirmed it. Ex. 59 (three reports by former U.S. Attorney Scott Lassar commissioned by the City of Chicago concluding that Guevara fabricated evidence and committed misconduct in multiple cases).

21. The Office of Professional Standards (OPS) has concluded Guevara lies. Ex. 60-63 (a series of OPS reports and sustained findings against Guevara spanning from 1986-2000

concluding that Guevara's denials of allegations of various forms of misconduct were not credible).

22. Judges and juries have adjudicated it. Exs. 2-14; *Martinez*, 2021 IL App (1st) 190490; *People v. Gomez*, 2021 IL App (1st) 192020, ¶ 58; *People v. Gonzalez*, 2016 IL App (1st) 141660, ¶¶ 34, 57; *People v. Serrano*, 2016 IL App (1st) 133493, ¶ 18; *People v. Montanez*, 2016 IL App (1st) 133726; *People v. Almodovar*, 2013 IL App (1st) 101476; *People v. Reyes*, 369 Ill. App. 3d 1, 21 (1st Dist. 2006) (all commenting on Guevara's pattern of unconstitutional misconduct).

23. And Guevara never denies it. *See, e.g.*, Ex. 1 (Guevara asserting the Fifth Amendment when questioned about his investigations).

B. Factual Background of Petitioner's Case²

24. On April 23, 1989, Edwin Castaneda,³ a member of the Latin Kings, was beaten to death by a group of people near Lawrence and Sawyer in Chicago.

25. Detective Guevara was assigned to investigate the case the same night. Ex. 105a at 71. Guevara tainted the case against Vera at every stage, including the investigation, arrest, orchestrating the line-up identification, and coercing Vera's confession. The State also relied on Guevara's testimony during a pretrial motion to quash arrest and during Vera's jury trial. When confronted about his misconduct in this case, Guevara refused to answer questions and asserted his fifth amendment right against self-incrimination in response to every question, including questions about rigging the identification of Vera and conspiring with other officers to coerce his false confession. Ex. 1.

² The appellate record is included on a USB drive attached to this petition.

³ The indictment lists the victim's name as Edwin Castaneda. The victim is also referred to as Alvin Castaneda or Elvin Castaneda throughout the record.

26. Right before Guevara started focusing on Vera, James Alzate told other detectives that members of the imperial gangster street gang named Lucky, Ricky G., Slick, and Papo were involved in the murder. Ex. 105b at 2.

27. None of nicknames Alzate provided to police belong to Vera. Slick is the nickname of John M. Hernandez, one of Vera's co-defendants, who was convicted in a separate bench trial. Ex. 105d. In 1998, Hernandez wrote an affidavit stating Vera was not involved in the murder. Ex. 105e. Hernandez's affidavit is consistent with the confession he gave to police where he made no mention of Vera but named others involved, including Gabriel Flores and Edwin Alicea, the two other co-defendants in this case. Ex. 105f. Alicia pled guilty and was sentenced to 20 years in prison. Ex. 105g. The case against Flores was nolle. Ex. 105h.

28. Despite the lead from Alzate, Guevara claimed he received information from Virgilio Muniz, a member of the same gang as the victim, that the suspect was named "Green Eyes". R. D-128. Vera has light-colored eyes.

29. Muniz, who was the subject of a pretrial hearing due to his reluctance to testify, was the only witness to identify Vera at his trial. R. D-57.

30. At trial, Muniz testified that Guevara and his partner took Muniz to the station for the line-up. R. D-48-49. Muniz admitted that he picked out Vera, who he was familiar with from around the neighborhood, not because he was there but because Vera was a member of a rival gang. R. D-53, 63-64. According to Muniz's own testimony, Muniz was untruthful to police when he implicated Vera. R. D-65.

31. In addition to orchestrating the identification of Vera, Guevara also falsely documented that Vera's father did not confirm his alibi, effectively thwarting Vera's ability to

present an alibi at trial. *See* Exs. 105b at 4; 105k at 54. When asked directly about this misconduct, Guevara asserted the fifth amendment. Ex. 1 at 253-55.

32. In 1996, Juan Aguilar, who was with Vera at the time they both learned of the Castaneda murder, was prepared to testify but was never called. *See* R. E-87; Ex. 105i (Aguilar affidavit).

33. Vera made contemporaneous allegations of the troubling events that led to his false confession. In a motion to suppress statements filed February 27, 1991, Vera outlined the police coercion: police threatened to prosecute his parents if he did not cooperate; Vera asked for an attorney and was not afforded one because his “only hope was to cooperate”; and police threatened to place him in imminent harm by putting him in a cell with rival gang members. Ex. 105j. On May 15, 1991, at the motion to suppress hearing, Vera testified that Guevara was one of the officers who interrogated and threatened to place him in a cell with a rival gang member. Ex. 105k at 51, 61.

34. In 2007, Vera further detailed Guevara’s abuse in an affidavit submitted in the case of *People v. Gabriel Solache*. Ex. 105l; *see also* Exs. 3, 8 (Solache’s confession was suppressed due to Guevara’s pattern of misconduct in coercing confessions). In his affidavit, Vera outlined that after Guevara orchestrated the false line-up identifications of Vera, police officers took Vera to the rival gang territory of the Latin Kings. Vera described Guevara sitting in the back of the police car with him, which is consistent with Vera’s testimony at trial where he described Guevara and other officers forcing him to “take a ride”. R. E-89.

35. While in the car, Guevara attempted to extract information about suspects in the murder by telling Vera nothing would come back on him. When Vera continued to deny any involvement, the police took Vera to an intersection known to have Latin King gang members and

announced on the bullhorn that Vera was in the car. The Latin Kings had a “contract” out for Vera’s death because, due to Muniz’s false identification, they mistakenly believed he was responsible for Castaneda’s murder. The Latin King gang members surrounded the police car while an officer opened the car door and attempted to force Vera out and into the hands of the Latin Kings. Vera was able to successfully remain in the car. Ex. 105l.

36. After the harrowing event and out of fear for his life, Vera falsely confessed.

37. Vera attempted to assert his innocence through multiple pretrial motions and during his testimony at trial. Vera’s motion to suppress statements was denied and his false confession was used against him at trial. Despite no physical or forensic evidence pointing to Vera, and despite Muniz attempting to retract his identification of Vera, Vera’s false confession and the testimony of Guevara and other officers convinced a jury to convict Vera.

38. Multiple attempts by post-conviction counsel to speak with James Alzate and other witnesses identified during the police investigation, including Keith Fells and Angel Lauzurique, have been unsuccessful to this point. Ex. 105c.

ARGUMENT

In light of the extraordinary evidence of the corruption of Reynaldo Guevara and his tactical team, this Court must vacate Petitioner’s conviction pursuant to 735 ILCS 5/2-1401

A. Legal Standard

39. A petition filed pursuant to 735 ILCS 5/2-1401 seeks to bring facts to the attention of the trial court that would have precluded entry of a final judgment had the facts been known at the time of entry of the judgment. *People v. Haynes*, 192 Ill. 2d 437 (2000). Although the petition must be filed in the same proceeding as the original judgment, the petition is a separate action. 735 ILCS 5/2-1401(b).

40. The burden of proof for a section 2-1401 petition is a preponderance of the evidence. *Smith v. Airoom, Inc.*, 114 Ill. 2d 209, 221 (1986).

41. Although section 2-1401 is a civil remedy, its remedial powers extend to criminal matters. *People v. Pinkonsly*, 207 Ill. 2d 555, 562 (2003).

A section 2-1401 petitioner is entitled to relief if (1) a meritorious defense or claim exists, and (2) the petitioner exercised due diligence in both presenting the defense or claim the original action and in filing the section 2-1401 petition. *Smith*, 114 Ill. 2d at 221. Ultimately, “[r]elief should be granted under section 2-1401 when necessary to achieve justice.” *People v. Lawton*, 212 Ill. 2d 285, 298 (2004). It is a “versatile and effective means of pursuing justice” for criminal defendants where the Post-Conviction Hearing Act is unavailable. *Id.* at 299.

42. Illinois law recognizes that a conviction may be vacated under 2-1401 as a result of a claim of actual innocence based on newly discovered evidence. 730 ILCS 5-5-4(c).

43. Applying *Lawton*, the Illinois Appellate Court has held that a section 2-1401 petition is the proper vehicle for a petitioner to seek to vacate an unconstitutional conviction if he has already completed his sentence or the interests of justice demand relief. *People v. Mathis*, 357 Ill. App. 3d 45, 50 (1st Dist. 2005).

44. In practice, and in the context of blatant and systemic issues of police misconduct, Illinois courts have routinely granted section 2-1401 petitions filed more than two years after conviction—both at the request of the petitioner and the State. For example, section 2-1401 has been the vehicle used to vacate more than 230 convictions connected to the misconduct of former Chicago Police Sergeant Ronald Watts and his team. It has also been used to vacate convictions of Guevara’s victims. See *E.g., People v. Demetrius Johnson*, 91 CR 19833 (Ex. 42); *People v.*

Rodriguez, 91-CR-13938 (Ex. 11); *People v. Rios*, 89-CR-16525; *People v. Kelly*, 99 CR 06197(03) (Ex. 13).

B. Petitioner’s pleading is timely

45. While a section 2-1401 petition normally must be filed within two years of the conviction in a criminal case, time during which the opposing party (or the police) fraudulently conceal the claim tolls the limitation period. *See People v. McLaughlin*, 324 Ill. App. 3d 909, 918-19 (1st Dist. 2001); 735 ILCS 5/2-1401(c). Time limitations in both post-conviction and civil matters are affirmative defenses that can and should be waived by the State or opposing party when justice warrants. *People v. Bocclair*, 202 Ill. 2d 89, 101 (2002); *Dever v. Simmons*, 292 Ill. App. 3d 70, 73 (1st Dist. 1997); *see also supra* page n.1 (State’s Attorney Foxx’s noting her commitment to rectifying Guevara-related wrongful convictions). Moreover, irrespective of timeliness, section 2-1401 is “versatile and effective means of pursuing justice.” *Lawton*, 212 Ill. 2d at 299. It has been repeatedly used to vacate convictions—even those secured by guilty plea—in the interests of justice or when circumstances change long after the statute of limitations ran. *See Davis*, 145 Ill. 2d at 244.

46. It is now widely accepted and understood that Guevara engaged in decades of corruption, but that corruption was hidden from criminal defendants, like the Petitioner herein. Accordingly, any and all of the allegations detailed in the attached exhibits that pre-dated the Petitioner’s trial in this case were *Brady* material that was required to be disclosed. *See People v. Mitchell*, 2012 IL App (1st) 100907, ¶¶ 71-72 (explaining that under *Kyles v. Whitley*, 514 U.S. 419 (1995), knowledge by any agents of the State, such as police officers, is imputed to the State). This is particularly true of the adverse credibility findings by the Office of Professional Standards (OPS) that predate any of the Petitioner’s trials. *See People v. Martinez*, 2021 IL App (1st) 190490, ¶¶ 90-92 (explaining that undisclosed, material documents relating to police misconduct that

predate the cases are *Brady* material); *People v. Mack*, 2018 IL App (2d) 170641-U, ¶ 15 (highlighting the “analytical link” between *Brady* and section 2-1401 fraudulent concealment).

47. All of this information, however, was never provided to the Petitioner and therefore fraudulently concealed from him. *See McLaughlin*, 324 Ill. App. 3d at 918-19; 735 ILCS 5/2-1401(c). Any delay in filing, therefore, is tolled. Petitioner cannot be penalized for failing to present these claims in the original action where the facts were withheld from him.

48. Petitioner, moreover, is bringing this petition not long after the State has publicly announced it no longer stands by Guevara-related convictions. This information provides a new basis to bring a claim.

C. Petitioner has a meritorious defense in the original action

49. When the Petitioner’s case was adjudicated decades ago, Guevara successfully concealed his corruption. It has now come forth, making Petitioner eligible for relief under 735 ILCS 5/2-1401(c). *See People v. McLaughlin*, 324 Ill. App. 3d 909, 918-19 (1st Dist. 2001).

50. Similarly, Guevara’s acts of coercing false statements and fabricating evidence in Petitioner’s case made it impossible for Petitioner to fairly present evidence of his innocence.

51. The new evidence affixed to this Petition—particularly Guevara’s pattern of similar misconduct and Guevara’s assertion of the Fifth Amendment when asked about this investigation—provide a meritorious defense. The new evidence of the pattern of Guevara’s misconduct is particularly probative here given the fact that Vera contemporaneously alleged Guevara’s unconstitutional misconduct during pretrial hearings and at trial, and that the State’s sole testifying eyewitness denied on the stand that he could identify Vera as the shooter. Had the trier-of-fact heard the evidence of Guevara’s practice of engaging in exactly the type of unconstitutional misconduct Vera alleged, his confession would have been suppressed and he

would have been entitled to relief. *See e.g.*, Exs. 15-21 (exonerated Guevara victims who all alleged that Guevara coerced their confessions); *see also* Exs. 3, 8 (Judge Obbish orders pertaining to the pattern of Guevara’s misconduct in coercing confessions and suppressing the confessions of Gabriel Solache and Arturo Reyes).

52. Furthermore, the new evidence of Guevara’s pattern of fabricating police reports by falsely documenting alibis, like he did in Petitioner’s case, provides evidence that undermines Petitioner’s conviction. *See* Exs. 42-48 (examples of cases of exonerated individuals where Guevara fabricated police reports by purposefully mis-documenting alibi or other statements, thereby ensuring the accused cannot defend against Guevara’s false charges).

53. In addition, the suppression of the evidence violated Petitioner’s rights to due process of law pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963). The rule of *Brady* “encompasses evidence known to police investigators, but not to the prosecutor,” and withheld impeachment evidence. *People v. Beaman*, 229 Ill. 2d 56, 73 (2008) (citing *Kyles v. Whitley*, 514 U.S. 419, 438 (1995)).

54. A *Brady* violation is a constitutional error that is never harmless, *People v. Beaman*, 229 Ill. 2d 56, 74 (2008), and a Section 2-1401 petition may “be used to challenge judgments claimed to be defective for legal reasons.” *People v. Lawton*, 212 Ill. 2d 285, 297 (2004).

55. All of the pattern exhibits attached to this Petition is impeachment of Guevara, and the scope of it would more likely than not have led to a different result in all of these cases.

CONCLUSION

For these reasons, Petitioner respectfully requests this Court grant this petition and vacate his conviction.

Respectfully Submitted,

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