

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
)	
)	
vs.)	Case No. 89 CR 23080(01)
)	
)	
EDWIN ORTIZ,)	
Defendant.)	
)	

**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, Petitioners are 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 position 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 Petitioners are 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 investigate. 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. 106a at 75-85.

8. Indeed, the very same pattern of misconduct acknowledged by numerous courts and by the Cook County State's Attorney's Office, was used to frame Edwin Ortiz. He was convicted of a 1988 murder based solely on two eyewitness identifications that were dubious from the get-go. The crime occurred at night, and the two witnesses had no more than a few seconds to view the shooter, whose face was partially blocked by a hood. On top of that, both eyewitnesses were attempting to identify a stranger—someone they had no familiarity with—during photo arrays and lineups *that occurred more than a year after the shooting*.

9. At Edwin Ortiz's bench trial, his attorney tried to highlight the unreliability of the identifications, arguing that Ortiz was the victim of mistaken identifications. But because Guevara's pattern of manipulating eyewitnesses during photo arrays and lineups was not known at the time, the trial court disregarded Ortiz's claims and believed the inculpatory testimony of the two eyewitnesses, Marvin Taylor and Santiago Pagan.

10. In addition, new facts have surfaced that entitle Edwin Ortiz to a new trial. On May 5, 2022, one of the two eyewitnesses, Santiago Pagan, gave a sworn statement revealing that, lo an behold, Guevara had employed his now-established pattern of misconduct in this case. Pagan states that he told Guevara repeatedly that he could not see the perpetrator's face and so he could not identify anyone. Guevara then pointed to Edwin Ortiz and told Pagan to identify him,

pressuring him and even bribing him with money. Pagan swears that when he relented and agreed to identify Ortiz, Guevara paid him. *See* Ex. 106b (Pagan Affidavit).

11. Had these facts not been fraudulently concealed from Ortiz, he would have never been convicted of this crime.

12. For these reasons, and those set forth below, Petitioner Ortiz respectfully asks this Court to vacate his conviction.

FACTUAL BACKGROUND

A. The Murder of Jose Morales

13. At 9:30 pm on July 31, 1988, Jose Morales, Marvin Taylor, and Santiago Pagan were in an alley off N. Avers Street, near 1145 N. Avers Street in Chicago, IL, just a few doors away from where Taylor lived. They were sitting in the alley drinking malt liquor.

14. A man walked up and asked them if they knew a person named Chino. A moment later he pulled out a gun. Morales, Taylor and Pagan immediately got up and started running out of the alley to Avers Street.

15. The gunman started shooting, killing Morales. Taylor was hit in his right midsection but survived, and Pagan was not hit.

B. The Initial Police Investigation²

16. When the police interviewed Marvin Taylor at the hospital in the hours after the shooting, Taylor initially provided a description of the shooter, as follows: approximately 20 years old, 5'8"-5'9" (Taylor was 5'6" at the time, and described the shooter as two to three inches taller than him), with black hair and light complexion. R. B-41, 44-45. By his own admission, when

² The appellate records is included on a jump drive attached to this petition. Citations to the record of the criminal proceedings are presented below as "R. ____."

the shooter approached he was wearing a hoodie over his head and “had his face covered,” “trying to hide his face.” R. B-37, 48-49.

17. Santiago Pagan was also interviewed by police. He also described the shooter as having a hoodie over his head, and blue corduroy pants. R. B-75, 77. Pagan described the shooter as approximately 18-20 years old, and 5’6”-5’7”, with a light complexion and a mustache. R. B-75-76.

18. Edwin Ortiz in no way fit these descriptions. At the time of the crime, he was **fourteen years old**, and was known by the nickname “Pee Wee” because of his small stature. R. D-16-19. According to an arrest report from February 1989, approximately seven months after the crime, Ortiz is listed as 5’2”, with brown complexion. Ex. 106c (Ortiz Arrest Report); R. D-21 (stipulated at trial that Ortiz was 5’2” in February 1989, more than four months after the Morales shooting). Ortiz’s sister, Maria Sanchez, testified at trial that in July 1988, he was 5’1”-5’2”. R. D-13-15. Another witness, Pedro Aponte, testified that in July 1988 Ortiz was approximately 5 feet tall.

19. Taylor remained in the hospital for several months and then eventually discharged. B-53. Shortly after his release, officers came to his residence and showed him fifteen books of photos to see if he could identify anyone as the perpetrator. Taylor looked through some of the books but was not able to make any identification. R. B-55-56. The police stopped and did not have him finish going through all the books because of his physical condition at the time. *Id.*

20. The gangbook identification procedure the police conducted with Taylor in or around September or October 1988 was not documented in any police reports or notes. Thus, it is unknown whether Ortiz’s photo was included among the photos Taylor was shown. *Id.*; *see also* R. B-56.

21. With no leads, the investigation went dormant for almost a year.

C. Reinvestigation by Gang Crimes Officer Points to Alternate Suspect, Pedro Aponte

22. On July 11, 1989, Gang Crimes Officers Joseph Sparks and Joseph Fallon visited Marvin Taylor to show him a photo array containing a suspect in the Morales murder investigation, Pedro Aponte.

23. Aponte became a suspect based on the initial investigation indicating that the perpetrator referenced a person named Chino just before firing shots. Gang crimes officers knew who Chino was, and knew him to be an associate of Pedro Aponte, and that Chino and Aponte were both in custody for a different murder at the time. Ex. 106d (Vucko July 11, 1988 Report).

24. Officers Sparks and Fallon showed Taylor a set of six photos, from which Taylor identified Pedro Aponte, the suspect, as the shooter. *Id.*

25. Aponte fit the descriptions initially provided by Taylor and Pagan. At the time of the Morales shooting, Aponte was 18 years old. In a March 17, 1988 arrest report, just a few months before the shooting, Aponte is described as 5'9", 150 pounds, with black hair and light complexion. Ex. 106e (Aponte Arrest Report).

26. Despite this lead, the case took a very different turn when Reynaldo Guevara entered the picture.

D. Guevara Suddenly Enters the Picture, and The Investigation Shifts to Ortiz

27. On September 6, 1989, Guevara—at that time, still a Gang Crimes Specialist before his promotion to detective—drove to Marvin Taylor's house and showed him a set of photos including Edwin Ortiz. According to Guevara, Taylor went through the photos and now identified Ortiz as the shooter. Ex. 106f (Guevara Sept. 6 Report).

28. There is no explanation provided for why Guevara got involved in the case on September 6, 1989, or how Taylor went from identifying 18-year old Pedro Aponte to now identifying 14-year old Edwin Ortiz. *Id.*

29. According to the cleared closed report, Ortiz was included in the photos shown to Taylor because he was known to associate with a person who went by the nickname Chino, the name the perpetrator mentioned before pulling out a gun and shooting Morales and Taylor. Ex. 106g (Cleared Closed Report).

30. However, at trial Guevara provided a very different explanation. According to Guevara, he brought a book of photos containing juvenile members of the Latin Disciples and Folks. R. B-93. Ortiz was associated with the Latin Disciples, and included in the book. His explanation for why he brought that particular book of photos was not that Ortiz had any known connection to a person named Chino; it was simply because the crime was committed in an area controlled by Folks gangs, to which the Latin Disciples belonged. R. B-95. Guevara provided no explanation for the contradiction between his testimony and the cleared closed report; or why, of all the Folks-affiliated gangs, he chose the Latin Disciples; or why he chose a book of juvenile photos, given that the eyewitnesses Taylor and Pagan had described the shooter as 18-20 years old.

31. There are several other highly suspicious aspects of Guevara's sudden decision to switch the focus of the investigation from Aponte to Edwin Ortiz.

- a. Remarkably, on September 7, 1989, **one day after** Guevara got Taylor's purported identification of Ortiz, detectives Vucko and Kato wrote a report claiming that **back on July 27, 1989**, Pedro Aponte had been brought to the police station and placed in live lineups viewed by Taylor and Pagan. According

to the report, both witnesses failed to identify Pagan. Ex. 106h (Vucko Sept. 7, 1989 Supp. Report).

- b. No explanation is contained in the police record, or at the trial, for why it took a month and a half to write a report regarding the negative identification of Aponte, or why it conveniently came one day after Ortiz had purportedly been identified. In addition, there is no evidence of a lineup report, or lineup photos, related to the purported July 27, 1989 lineups excluding Aponte.

32. With Aponte now out of the story, Guevara quickly closed the case against Ortiz. On September 29, 1989, Ortiz was brought to Area 4 for an in-person lineup. Guevara picked up Pagan and Taylor from their homes to view the lineups. R. B-110. According to police reports, Taylor and Pagan both positively identified Ortiz from separate lineups.

33. Based only on the identifications of Pagan and Taylor fifteen months after the shooting, Ortiz was arrested and charged with murder.

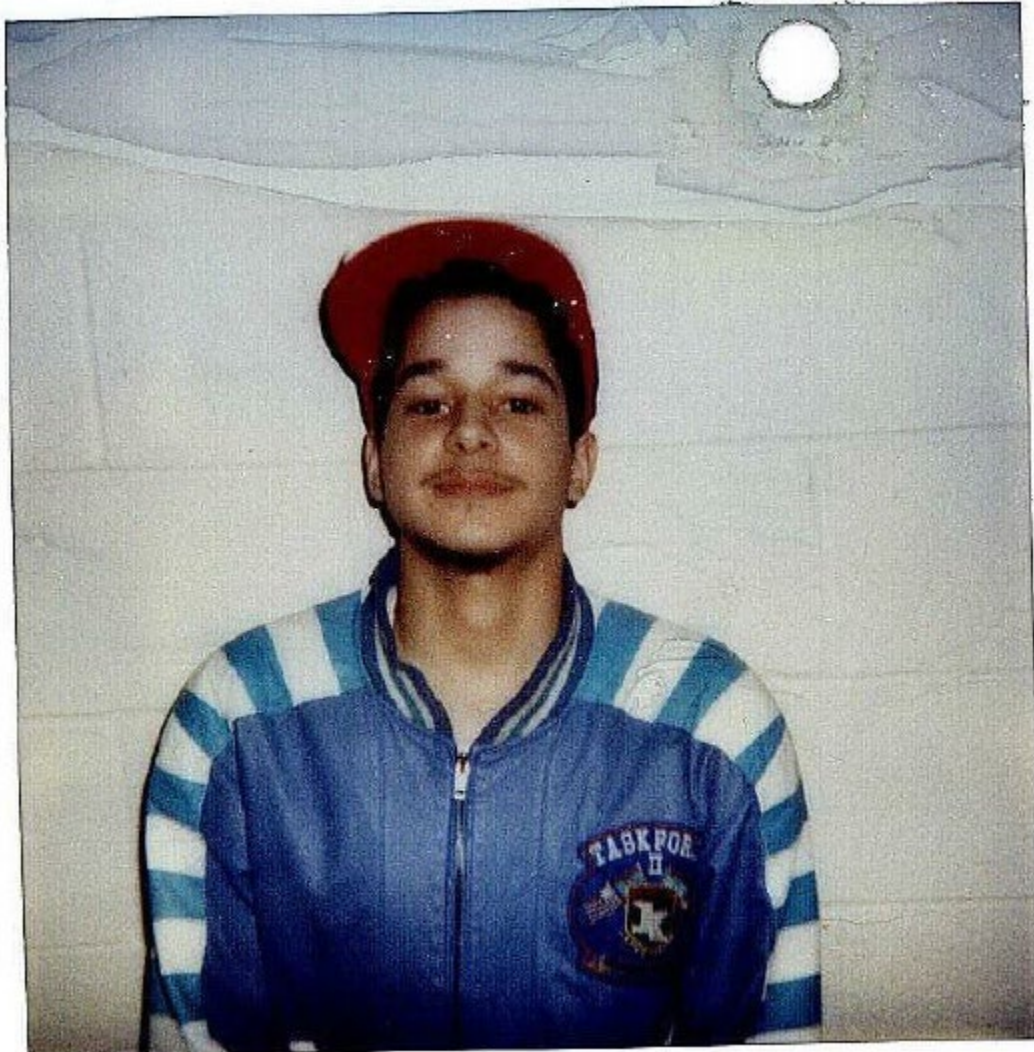
34. There was no physical evidence, or any other evidence of any kind, connecting Ortiz to the shooting of Morales.

35. Nor is there any explanation for how Marvin Taylor went from identifying Santiago Pagan in July 1989, to identifying Edwin Ortiz two months later.

36. Below is Aponte's picture from September 1988. Ex. 106i (Aponte arrest photo).



37. Indeed, Ortiz did not look anything like Aponte. Below is a photo CPD officers took of Ortiz when he was arrested in February 1989. Ex. 106j (Ortiz arrest photo). Aponte could not possibly have been mistaken for 14-year old Edwin Ortiz.



38. Guevara and Detectives Vucko and Kato appeared to recognize the problem with Taylor's earlier identification of Aponte. At trial detective Vucko testified that Taylor's July 1989 identification of Aponte had been a tentative identification. R. B-102.

39. But this testimony is contradicted by contemporaneous police records. In Vucko's own July 11 police report, written the same day that Sparks obtained the photo array identification of Aponte, Vucko made no mention of Taylor's identification having been tentative. Instead, he described it as follows: "Taylor was shown a group of 6 C.P.D. photos including a photo of

Pedro Aponte. *From these photos Marvin Taylor identified Pedro Aponte as the offender wanted for this offense*, arrangements will be made to have witnesses of this homicide view subject Pedro Aponte.” Ex. 106d (Vucko July 11 Report).

40. The police record for this homicide contains no notes, reports, or other documentation from Sparks or Fallon indicating that Taylor’s identification of Aponte had been tentative.

41. Remarkably, but all too common in cases involving Guevara, the homicide investigation in this case is devoid of any general progress reports or other forms of handwritten notes contemporaneously documenting the police investigation. Relatedly, there is no documentation of the typical efforts to pursue a lead, such as an interview of Aponte, efforts to collect physical evidence connecting Aponte to the crime, or efforts to corroborate (or disprove) his alibi.

PROCEDURAL HISTORY

A. Pre-Trial Proceedings

42. The defense moved to suppress the identifications of Ortiz by Taylor and Pagan, which were denied after the Court’s finding of guilt. R. F-32.

B. Benitez’s Criminal Trial

43. At trial, the State’s case hinged on the reliability of the eyewitness identifications of Marvin Taylor and Santiago Pagan. Plaintiff’s attorney Josph Lopez argued that the two witnesses’ identifications of Ortiz were unreliable, given the circumstances of the crime, the initial descriptions that described someone significantly older and heavier than Ortiz, and the passage of more than a year from the crime to the identifications.

44. There was no weapon, crime scene, or other physical or forensic evidence whatsoever connecting Ortiz to the crime.

45. The State's witnesses were Marvin Taylor, Santiago Pagan, Robert T. Baikie (police forensic investigator who worked on the shooting), Reynaldo Guevara, Ralph Vucko (Area 4 Violent Crimes Unit for CPD), and Officer Joseph Sparks.

46. As explained above, Taylor and Pagan each identified Edwin Ortiz.

47. Reynaldo Guevara testified to his central role in building the case against Ortiz. Guevara testified that on September 6, 1989, he took photographs from a juvenile book of Latin Disciples and Folks to Marvin Taylor, who positively identified Ortiz. R. B-93-94.

48. Detective Vucko testified to his role in obtaining the lineup identifications of Ortiz by Pagan and Taylor in September 1989. R. B-103-106. He further acknowledged that before the lineups, it was Guevara who brought both Taylor and Pagan to Area 4 for the lineups. R. B-110.

49. Witnesses for the Defense were Frank Tobin, Maria Sanchez, and Pedro Aponte. All three witnesses testified to Ortiz's small stature. Frank Tobin worked at the Cook County Juvenile Temporary Detention Center school and testified that Ortiz was called Pee Wee because he was so physically small. R. D-11-12. Maria Sanchez, Ortiz's sister, testified that in July 1988 he was 5'1" or 5'2" tall. R. D-14. And Pedro Aponte testified that Ortiz was approximately 5 feet tall in July 1988, and was called Pee Wee because he was so small. R. D-17-18.

C. Conviction, Sentence, and Direct Appeal

50. On May 3, 1993, the Judge found Ortiz guilty of first-degree murder and attempted murder. R. F-31.

51. On June 9, 1993, Ortiz was sentenced to 40 years for first degree murder, running concurrently with 15 years for attempted first degree murder. R. G-14.

52. On June 9, 1993, directly after sentencing, Ortiz moved for a new trial or judgment of acquittal. This motion for a new trial was denied.

53. On March 4, 1994, Ortiz filed a Brief and Argument for direct appeal in the Appellate Court of Illinois in the First Judicial District, Fourth Division. On September 15, 1994, Ortiz's conviction was affirmed by the Appellate Court of Illinois, First Judicial District, Fourth Division.

NEW EVIDENCE SINCE ORTIZ'S CONVICTION

A. Sworn Statement of Santiago Pagan Regarding Guevara's Misconduct in Obtaining Identification of Ortiz

54. On May 5, 2022, Santiago Pagan provided a sworn and notarized declaration regarding his interactions with Guevara, describing the exact same pattern of misconduct used by Guevara to manipulate eyewitnesses into falsely identifying his chosen suspect. Ex. 106b.

55. In his May 5, 2022 affidavit, Pagan explained that it was "very dark that night and the shooter was wearing a mask and had a hood over his face, so I was not able to see his face." *Id.* at ¶5.

56. Pagan first viewed a book of photos but could not identify anyone. *Id.* at ¶6.

57. Pagan was then taken to the police station to view a lineup. Pagan repeatedly stated that he could not identify anyone because he could not see the shooter's face. *Id.* at ¶7.

58. Pagan stated that Guevara, who he described as a "Hispanic" or "Puerto Rican" officer, then pressured him to choose Edwin Ortiz out of the lineup, saying that Guevara "then pointed to Edwin Ortiz and told me that I should pick him." *Id.* at ¶8.

59. Pagan stated that Guevara continued to pressure him and offered him money to choose Ortiz. After Ortiz succumbed and identified Ortiz, Guevara gave Pagan money for choosing Ortiz out of the lineup. *Id.* at ¶¶9-10.³

B. Guevara's Pattern of Misconduct

³ Based on investigative efforts, it appears Marvin Taylor is deceased.

60. 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.

61. 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).

62. 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).

63. 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).

64. 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).

65. 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).

66. 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).

67. 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).

68. 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).

69. 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).

70. Whistleblowing police officers have testified and spoken up about it. Ex. 57 (testimony of former CPD detective Bill Dorsch 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 where he falsely documented).

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

72. 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).

73. 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).

74. For his part, Guevara does not deny any of it. *See, e.g.*, Ex. 106a.

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

75. 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).

76. 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).

77. 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).

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

79. 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.

80. 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).

81. 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).

82. 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).⁴

B. Petitioners’ pleadings are timely

83. 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,

⁴ *See, e.g.,* Demetrius Adams, 04CR17884, Chauncy Ali, 07CR421(03), Landon Allen, 04CR5700(01), George Almond, 06CR19708(01), Ben Baker, 05CR8982(01) & 06CR810(01), Deandre Bell, 06CR22073(01) & 07CR11499(01), Harvey Blair, 04CR18641, Darron Byrd, 07CR10335(02), Raynard Carter, 07CR10335(01) & 06CR6565(02), William Carter, 04CR9579, 04CR17677, & 06CR13571, Bobby Coleman, 03CR2644(01), Jermain Coleman, 06CR12908(01), Craig Colvin, 04CR14263(01), Milton Delaney, 07CR6264(01), Gregor Dobbins, 04CR8728(01), Christopher Farris, 04CR18418(01), Robert Forney, 07CR3834, Marcus Gibbs, 07CR3741(01), Leonard Gipson, 03CR2644, 03CR12414 & 07CR20496, Clariss Glenn, 06CR810(02), Cleon Glover, 06CR15063(01), Stefon Harrison, 06CR24269(01) & 07CR421(02), Sydney Harvey, 06CR25232(01), Rickey Henderson, 02CR19048, 03CR21058, 05CR7952 & 06CR18229, Kenneth Hicks, 07CR2269(01), Brian Hunt, 08CR5302(01), Allen Jackson, 06CR33575(01), Shaun James, 04CR10615(01), Goleather Jefferson, 06CR23620, Thomas Jefferson, 05CR17856 & 07CR22093(01).

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.

84. 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).

85. All of this information, however, was never provided to the Petitioner and therefore fraudulently concealed from them. *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.

86. 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

87. 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).

88. 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.

89. The new evidence affixed to this Petition—particularly Guevara's pattern of similar misconduct, demonstrated acts of misconduct in this individual case (such as suppressing the fact that Santiago Pagan told Guevara that he could not see the shooter's face and could not make an identification, and using pressure and payments to secure a fabricated identification of Ortiz from Pagan), and Guevara's assertion of the Fifth Amendment when asked about this investigation—provide a meritorious defense.

90. 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)).

91. 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).

92. 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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