

No. 128740

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of
	)	Illinois, No. 1-19-1930.
Respondent-Appellee,)	
	)	There on appeal from the Circuit Court
-vs-	)	of Cook County, Illinois , No. 02 CR
	)	31134.
)	
PIERRE MONTANEZ,	)	Honorable
	)	Joseph M. Claps,
Petitioner-Appellant.)	Judge Presiding.
)	

REPLY BRIEF FOR PETITIONER-APPELLANT

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ARGUMENT

- I. The circuit court erred in denying Pierre Montanez leave to file his successive post conviction petition, where he demonstrated cause and prejudice with his claim that the Chicago Police Department violated *Brady v. Maryland* when they concealed a potentially exculpatory “street file” from him at trial, and where he repeatedly requested, but was denied, access to the full file, meaning he could not attach it to his petition or make specific allegations based off of it.**

Pierre Montanez’s *pro se* post conviction petition, which includes Candace Gorman’s correspondence to Montanez and to the ARDC, and a protective order regarding *Fields v. City of Chicago* street files, makes clear that Gorman was in possession of a *Fields* street file relating to Montanez, and that she could not share the file with him. The First District’s decision in *People v. Lyles*, examining Lyles’ file, which Gorman also found while investigating *Fields*, confirms that these files are street files, were kept from the defense, and could not be shared with anyone but attorneys. 2022 IL App (1st) 201106-U.

The State’s brief attempts to obfuscate these vital background facts, but they are simply not in dispute. A street file exists which may contain *Brady* material that was kept from Montanez’s defense during his trial. Via his successive post conviction petition, Montanez requests only to access it, through second-stage post conviction proceedings with the appointment of counsel.

- A. CPD’s use of street files to hide exculpatory evidence is well documented, and Montanez established in his petition that he was one of hundreds of criminal defendants contacted by attorney Candace Gorman when she uncovered a secreted street file related to his case.*

The State attempts to draw a distinction between a “street file”--one which exists for the purpose of concealing exculpatory evidence--and a “basement file”--a file which is innocently stored in a CPD basement (St.Br.28). This distinction, if it exists at all, is irrelevant to Montanez’s case, where his file is unquestionably the former (Sup.C.24).

- i. Street file history*

As explained in opening, one of the files uncovered by Candace Gorman while investigating a civil rights claim for her client Nathson Fields, was Montanez's (Open.Br.18). These files were discussed in *Fields v. City of Chicago*, where the federal district court correctly referred to Fields' file as a street file, and noted that there was a pattern of concealing of these files:

Fields' evidence, including evidence of systemic underproduction of police reports, was sufficient to show a systemic failing that went beyond his own case. The City and police department were on notice, via the *Jones/Palmer* litigation and the department's own subsequent internal inquiry, of deficiencies in its recordkeeping and record-production practices that, at least in some situations, led to harm. *Fields v. City of Chicago*, No. 10 C 1168, 2017 WL 4553411, at *3 (N.D. Ill. Oct. 12, 2017), *aff'd*, 981 F.3d 534 (7th Cir. 2020)

The "systemic failing" described by the circuit court refers to Gorman's uncovering of hundreds of street files while investigating the *Fields* case—including Montanez's. This is clear in the letter from Gorman attached to Montanez's petition, wherein she notes that she found his "Chicago police file" while investigating her own client (Sup.C.24). Attachments to Montanez's petition reveal that this client was, indeed, Nathson Fields and the litigation discussed by Gorman was *Fields v. City of Chicago*. In a response to an ARDC complaint regarding Montanez, Gorman stated the following:

The situation that Mr. Montanez complains about is in regards to...*Nathson Fields vs. City of Chicago et al 10-C-1168*...In discovery in that case I found secreted in the basement of a Chicago police station hundreds of investigative files...the murders that my client was charged with were among those files and contained exculpatory evidence that was never turned over to his criminal defense lawyers (Sup.C.28).

The State defines a street file as "a file that police withheld from the State's attorney and was thereby unavailable as a source of exculpatory information..." (St.Br.29). Montanez's file was exactly that. Indeed, the First District has acknowledged that the files uncovered by Candace Gorman in relation to *Fields v. City of Chicago* are street files. In *People v. Lyles*, the defendant's post conviction petition attached correspondence from Candace Gorman, ostensibly the same letter Montanez received. 2022 IL App (1st) 201106-U, ¶ 7. In the letter, as in Montanez's

letter, “Gorman explained that while she was working on an unrelated case, she discovered a ‘hidden’ police file related to the defendant's case” but explained that, due to a federal protective order, she could share the files with attorneys, but not with the defendants whom the files concerned. *Id.* Based on Gorman’s letter, the First District found that Lyles demonstrated cause and prejudice where the “street file was undoubtedly suppressed by the State...” *Id.* at ¶ 17. Thus, the court advanced Lyles’ petition, noting: “We emphasize that in this case, the presence of the street file kept by the police regarding the defendant, without his knowledge and only to be disclosed to him by a third party, years after his conviction, is troubling.” *Id.* The *Lyles* court acknowledged in the decision that the files in question were street files that were “hidden,” “suppressed”, and “kept by the police.” *Lyles*, 2022 IL App (1st) 201106-U, ¶¶ 16-18. *See also People v. Banks*, 2020 IL App (1st) 180322-U, ¶ 17(advancing a petition where Gorman provided an affidavit and “averred that a court order prevented her from sharing the street file with the defendant directly and she could only disclose it to his attorney”). Montanez demonstrated in his post conviction petition that he was in the exact same position as Lyles and Banks.

Persisting in the argument that Montanez’s file should somehow not be considered a street file, the State also mischaracterizes the *Palmer v. City of Chicago* litigation. As discussed in opening, in *Palmer*, 755 F.2d 560 (7th Cir. 1985) (*Palmer 1*), the 7th Circuit found that the plaintiffs, who were either charged with or convicted of crimes in state court, did not have standing to make federal claims based on street files, but the court granted injunctive relief, directing the city to preserve their street files. *Palmer*, 806 F.2d at 1317. In *Palmer 2*, said plaintiffs returned to court, unable to make claims based upon their street files, but argued that they were nonetheless entitled attorneys fees, because the practical result of the *Palmer 1* litigation was that CPD stopped hiding the files. Though the plaintiffs achieved the equitable,

just result of CPD agreeing to end the practice of hiding street files, the court found that they did not “win” in the sense that they were entitled attorneys fees, because the *Palmer 1* court had held that they did not have standing to make their claims in federal court. *Id.*

What the State ignores about *Palmer 2* was the court’s acknowledgment that, irrespective of the individual plaintiffs’ ability to make street file-related claims, CPD had been in the business of hiding documents in street files. *Id.* at 1323 (the injunction aspect of the suit may have “shaken the police department and caused it to make changes in record-keeping procedures...”). Thus, the State’s contention that *Palmer 2* somehow stands for the premise that street files generally do not contain exculpatory information is inaccurate. Moreover, irrespective of whether the files discussed in *Palmer* contained exculpatory information or counted as “street files,” the operative point, as explained above, is that **Montanez’s** file was a street file, as were the other files Gorman discovered pursuant to *Fields v. City of Chicago*. Relatedly, the State fails to acknowledge the cases cited in opening (Open.Br.17-18) following *Palmer*, wherein courts have explicitly held that the nefarious street files procedure existed at the time of *Palmer*, and did not end after the *Palmer* litigation, even though CPD promised to end it. *See Rivera v. Guevara*, 319 F. Supp.3d 1004, 1062 (finding that after *Jones* and *Palmer*, CPD and the City knew that their street files practice led to harm, and that the *Fields* litigation indicated that the “policies instituted to deal with these problems were insufficient to correct them”).

The State attempts to muddy the waters, citing a single situation in the 1980s where criminal defendants were unable to point to exculpatory information in their street files. *Palmer*, 806 F.2d at 1317. The State ignores the subsequent cases wherein it is noted that the street file practice continued, and, most importantly, ignores that the First District has acknowledged CPD’s practice of hiding street files as recently as the *Lyles* decision in 2022, regarding the exact same batch of street files of which Montanez’s file was a part.

ii. *Montanez's street file*

Montanez learned of his street file in December of 2015, when Candace Gorman wrote to him and explained that she had found his street file, but, by court order, could only discuss it with an attorney, and not Montanez himself (Sup.C.24). The State misrepresents the substance of Candace Gorman's letter to Montanez when it argues that, had Montanez signed Gorman's authorization form, Gorman would have reviewed his street file and discussed it with Montanez (St.Br.21). The plain language of the authorization form is clear—Gorman can only and will only discuss the contents of Montanez's file with an attorney:

I _____ hereby give my full consent and authority to anyone who has acted on my behalf—including former attorneys—to freely discuss my claim and to share any and all documents and files with attorney H. Candace Gorman and those individuals who are working with Attorney Gorman (Sup.C.25).

The letter accompanying the authorization form confirms that this is the case:

...I would like to talk with **your attorney** if you have one so that I can share the information. Could you please send me the contact information for **your attorney**? **I cannot share the information with you directly because of a court order.** If you do not have a current attorney please send me the contact information for your last known attorney. I am attaching an authorization for you to sign allowing me to talk **with any attorney** that has represented you and to obtain your file so that I can compare it with what I have obtained. Also you can feel free to send me any documents that you believe might be helpful regarding your conviction.

I am sorry **I cannot share the contents of the file with you** at this time. **The judge entered an order stating that I cannot share the documents with the defendant but I can share the documents with the attorney.** (Sup.C.24) (emphasis added)

The State argues that the portion of the letter stating “I am attaching an authorization form for you to sign allowing me to talk with any attorney that has represented you and to obtain your file so that I can compare it with what I have obtained” indicates that Gorman would conduct her own review of Montanez's street file and compare it with the trial file (St.Br.21). However, it is clear that Gorman would only be able to conduct such a review once she discussed it with Montanez's attorney and received the trial file from said attorney. It is

also clear that once this review was conducted, she would only be able to discuss it with an attorney representing Montanez.

Another attachment to the petition provides even more evidence that Gorman was unable to consult Montanez regarding his own file—a letter Gorman wrote to the ARDC after Montanez raised a complaint against her for not tendering the file. In the letter Gorman writes:

Judge Kennelly entered a protective order specifically limiting the access to the files to attorneys representing the defendants—not to the defendants themselves (because the files contained personal information including witness information). As part of that discovery process I sent letters to several hundred men who were in prison and whose underlying investigative files were sent in the basement. The attachment from Mr. Montanez is an example of the letters sent out. I did not reach out to Mr. Montanez in any representation or fiduciary capacity. Instead, consistent with the federal court’s protective order, I sent him a letter to inform him that a file of his had been found and that I would like to have permission to contact his attorney (Sup.C.28).

The protective order itself, which Montanez attached to his petition, confirms what Gorman wrote: “The documents and information in the CPD files shall be kept, maintained, and considered for attorneys eyes and ears only.” (Sup.C.32). The First District has also explicitly acknowledged that only attorneys can view Candace Gorman’s street files: “We again note that the trial court’s order concerning the hidden street files only allows disclosure of the file to counsel and not the defendant.” *People v. Lyles*, 2022 IL App (1st) 201106-U, ¶ 18.

In arguing that Montanez could simply have signed the authorization form and received the file, the State misrepresents the letter and ignores other evidence in the record. Indeed, Montanez’s inability to receive and examine his street file forms the entire basis for this claim. Montanez was told by Gorman that he could only obtain his file if he were represented by counsel, so he attempted to contact his trial attorney, objected to Gorman’s refusal to tender the file via an ARDC complaint, sought *in camera* review of the file by Judge Claps, and objected when the case was transferred to Judge Walowski, who refused to conduct said review and allowed the State to examine the file (Sup.C.21, R.232-33, 1190017, Sup.C.26, R.244, R.249-51,

1190017). Montanez repeatedly attempted to gain access to his full file but was unable to due to his *pro se* status on his first petition. The State's assertion that all of this could have been avoided had Montanez signed an authorization form is wrong. It is directly contradicted by the plain text of the letter and the authorization form itself. Indeed, the entire basis of Montanez's claim is that he remains unable to access the possible *Brady* material in his file.

B. Montanez is entitled to second-stage post conviction proceedings where, liberally construed, he argued that his street file likely contained Brady material, and the First District has held that second stage proceedings are necessary in claims substantively identical to Montanez's.

i. Montanez's petition established cause and prejudice with its claim that years after his trial, he learned that the State concealed potential Brady material, some of which is contained in the yet unseen remainder of his street file

Montanez filed his initial post conviction petition in 2014 and it advanced to second stage on March 13, 2015 (C.76). Gorman sent her letter on December 3, 2015. The State argues that Montanez did not establish cause because he could have raised the street files claim at the time he filed his initial post conviction petition, apparently asserting that Montanez should have raised a street file-based *Brady* claim before he knew his street file existed (St.Br.47).

The State asserts that “over the next few years, petitioner amended and/or supplemented his petition several times to add new claims, yet he did not add a claim about the basement file.” (St.Br.48). The reason for this is simple—Montanez was attempting to obtain the street file prior to adding a claim about it to his initial petition. As Montanez stated repeatedly on the record, once he became aware of the existence of his street file, he and his family members contacted Scott Frankel, the private attorney who represented Montanez at trial, to no avail (R.227, 232, 1190017). As demonstrated in this post conviction petition, he also attempted to access the file by filing an ARDC complaint against Gorman for not tendering the file (R.227, 1190017, Sup.C.26-31). Montanez was seeking ARDC recourse regarding this matter until

April of 2018 (Sup.C. 30). Immediately following the conclusion of the ARDC investigation (or, in other words, when he found out that the ARDC would not order Gorman to give him the file), on May 2, 2018, Montanez promptly brought the street file to Judge Claps' attention (R.218-218, 1190017). Linda Walls conducted her review of the file some time between July 31, 2018 and before August 21, 2018. At this point, Montanez's initial post conviction petition had already been dismissed (R.178, 1190017). Because Montanez had no way of knowing whether he would receive access to the file, or what Walls would ultimately decide to tender before his initial petition was dismissed, there is no reasonable argument that he should have made a *Brady* claim related to his street file in his initial petition. Montanez's course of action was sensible—indeed, were he able to obtain the file, he could have pointed to specific exculpatory information within it, strengthening his claim.

The State's argument that Montanez should have raised his street file claim during the proceedings on his initial post conviction petition ignores that, just a month or so after Walls reviewed the file, Montanez filed his "third amended post conviction petition." In it, Montanez requested that the court take judicial notice of the fact that Judge Walowski ordered ASA Walls to turn all of the documents over to Montanez, and, from that point, the State had been concealing the file (Sup.C.1517, 1191930). He also filed a substitution of judge (SOJ) motion based on Judge Walowski's refusal to conduct an *in camera* review of the file (R.4, 1191065), and a rule to show cause against ASA Linda Walls for her handling of the file (R.334, 1190017). He was not permitted to amend his petition, and all of his motions were denied.

Also, at various points in the proceedings, when Montanez attempted to amend his initial petition, he was directed to file a successive post conviction petition if he wished to add new claims: "I granted the State's motion to dismiss. You have to appeal that decision. To file something under the nature of newly discovered evidence has to be filed now in a successive post conviction petition." (R.206; See also, R.198, 1190017). In filing a successive

petition after he received the report, and exhausted all of his attempted means to obtain the rest of the file, Montanez did as he was directed to by the circuit court.

Finally, the State asserts that Montanez should have brought up the street file during appellate proceedings following the dismissal of Montanez's initial petition (St.Br.22). The claim raised in Montanez's initial petition had absolutely nothing to do with Montanez's street file, and none of the attachments Montanez obtained in preparation for his successive petition were part of the record in the appeal from the initial petition. Filing an appellate allegation based upon the street file claim would have been plainly improper. Ill. S. Ct. R. 341(7); *People v. Joya*, 319 Ill. App. 3d 370, 380-81 (1st Dist. 2001)(matters not considered by the circuit court cant be added and considered by the reviewing court). Had Montanez done so, he would have been vulnerable to the State accusing him of improperly adding to the record on appeal. Relatedly, the State asserts that, rather than raising this issue in the instant appeal, Montanez should have appealed from Judge Walowski's various rulings denying Montanez leave to amend his petition (St.Br.23). Again, this ignores that Montanez was **directed** to file a successive petition to add newly discovered evidence (R.206; See also, R.198, 1190017). Foreclosing review of his claim now would penalize him for doing exactly as he was told.

The State's brief mischaracterizes Montanez as belatedly taking action upon receiving notice that a street file existed in his case. In reality, Montanez was relentless in attempting to get assistance in obtaining his file. The State's argument that Montanez should have found another way to raise this claim in his initial petition is deeply unjust, and ignores that Montanez was a *pro se* litigant navigating this unprecedented situation unassisted.

The State also asserts that Montanez did not establish prejudice, unfairly characterizing Montanez's well supported claim that his street file may contain *Brady* material as a mere "hope" (St.Br.51). In opening, Montanez argued that a Chicago Tribune article discussing Gorman's street files provides evidence that most of the files contained information that was

not included in the trial file (Open.Br.39). The State asserts that the article should not have been cited in opening, but this ignores that the First District relied upon this same article in determining that Candace Gorman street files cases should advance:

...there is other evidence that raises the inference that the evidence was withheld from trial counsel. Specifically, Gorman’s affidavit indicates that her own client’s street file contained exculpatory material that was not disclosed to his trial counsel. And Gorman’s review of 60 of the 400 plus street files she uncovered revealed that 54—or 90%—of those files contained material that was not in the defense file. Jason Meisner, Old police ‘street files’ raise question: Did Chicago cops hide evidence?, Chicago Tribune (F e b 1 3 , 2 0 1 6) , <https://www.chicagotribune.com/news/ct-chicago-police-street-files-met-20160212-story.html>.
People v. Banks, 2020 IL App (1st) 180322-U, ¶ 18.

The State’s brief repeatedly faults Montanez for arguing that “ASA Walls’ representations cannot be trusted” (St.Br.32). As argued below, Montanez’s claim that his street file likely contained material not tendered to the defense at trial does not necessarily depend on the notion that ASA Walls was being untruthful in her representation to the circuit court that Montanez’s file did not contain *Brady* material (See Arg. 2, *Supra*). It is interesting, however, that the State is apparently appalled that Montanez would suggest that the State’s attorney’s office might make misrepresentations or be neglectful of Montanez’s file, but simultaneously argues that the Tribune article regarding Gorman is “open to question.” (St.Br.33). The State baselessly asserts that Gorman was misrepresenting her review of street files, and that the Tribune’s report that 90 percent of the files reviewed by Gorman contained untendered material is somehow in dispute or inaccurate. The State cites absolutely no authority for the claim that Gorman’s files did not contain exculpatory information. It asserts that because the *Palmer 2* files in the 1980s arguably did not contain exculpatory information (although the plaintiffs’ attorneys did allege that the exculpatory information was removed) and because “petitioner has not identified anyone who has won a postconviction claim based on those files” they must not be exculpatory (St.Br.33). While the State asserts that no litigant has won a street files case,

the true state of the body of street files litigation is that no one has won a street files case yet. The State mistakes an inability to win a street files case with the sad fact that post conviction litigants can spend decades or more waiting to litigate their claims, regardless of their potential merit. Indeed, the petitions in *Lyles*, *Fallon* and *Banks*¹ are currently pending at the second stage.

Finally, regarding prejudice, the State asserts that an “eyewitness testified that petitioner was in the [car with the decedents].” (St.Br.53). The State refers to Anais Ortiz, who stated that she was in the car with Montanez, Luera, and the two decedents, before being dropped off, the evening prior to the offense. The State ignores that Ortiz may have been testifying in exchange for a plea bargain. *People v. Montanez*, 2021 IL App (1st) 191065-U, ¶¶ 41, 42. The State also ignores that the First District explicitly held that Ortiz’s testimony “was not material to the outcome of the defendant’s trial.” *Id.* at ¶ 43. Thus, there is no material evidence placing Montanez in the car with the decedents on the night of this offense.

Putting aside the questionable Ortiz evidence, the State is left with the claim that “one victim had DNA under her fingernails that was consistent with petitioner’s DNA.” (St.Br.53). Closer examination of this claim shows that the DNA evidence was far from definitive (See Appellate Reply Br. at 7-8, 1190017²). The rest of the evidence—that Montanez carried gas

¹ The petitions in *Lyles*, *Fallon*, and *Banks* are all pending at the second stage as of April 11, 2023, March 21, 2023, and February 23, 2023, respectively. Copies of the docket sheets in each of these cases, reflecting the date where each petition was advanced, and the most recent continuance date for each case, are appended to this brief. This Court may take judicial notice of documents in the records of other court proceedings. *Am. Fed. of State, County, and Municipal Employees v. Ill. Labor Rel. Bd.*, 2017 IL App (5th) 160046, ¶ 16.

² The DNA expert’s conclusion that Montanez could not be excluded from the mixture of DNA found in Ramirez’s left hand relied on the “assumption” that one of the profiles discovered matched Ramirez (R.KKKKKKK.106). Regarding the right hand, the expert stated “What that means simply is that there are DNA types that are present. I can’t say that they match the people.” (R. KKKKKKK.105–06).

cans and had burns on his arms--shows, at most, that Montanez may have been an accessory after the fact, aiding the concealment the commission of the murder. Certainly, were the contents of Montanez's street file in any way exculpatory, this could call into question whether Montanez was accountable. Because it is well established that street files may contain *Brady* material and Gorman is in possession of Montanez's street file, Montanez has demonstrated that he was arguably prejudiced.

ii. *The First District has held that pro se post conviction petitioners are entitled to second stage proceedings where a street file exists in their case, but they cannot gain access to it as pro se litigants*

Just like the defendants in *Lyles*, *Banks*, and *Fallon*, Montanez demonstrated through his post conviction petition and its attachments that he was likely prejudiced by potential exculpatory material in his street file (Open Br. 22-24). The State's only argument distinguishing the instant case from *Banks* and *Fallon* is that these cases were first stage post conviction petitions rather than successive petitions (St.Br.55). The State's argument is unpersuasive where *Lyles*, the most similar case to Montanez's, was a successive post conviction petition and the court concluded that the defendant demonstrated cause and prejudice with the same claim as Montanez's. The State notes that in *Lyles*, initial post conviction proceedings ended prior to Lyles receiving the Gorman letter (St.Br. 50-51). Similarly, Montanez's initial proceedings ended while he was still attempting to obtain the file (See Arg I.b.i).

Montanez's petition established cause and prejudice, where he filed his petition immediately after he exhausted all means of reviewing his file, and where he provided ample evidence that his file may contain *Brady* material. Thus, his petition should move forward so that an attorney can review his file and determine whether there is, in fact, a *Brady* violation. See *Lyles*, 2022 IL App (1st) 201106-U, ¶¶ 16,17.

iii. *Montanez's petition contained enough facts to make out a claim that the State violated Brady by concealing potentially exculpatory information in his street file, and the context of his street file-related*

litigation confirms that he intended to make such a claim

The State next argues, briefly, that Montanez did not clearly enough allege that his street file likely contained *Brady* material (St.Br. 43-45). The State's argument mirrors the First District's erroneous finding—Montanez raised the *Brady* claim regarding the McDonnell police report clearly, but his allegations regarding the full file were raised “obliquely or implicitly.” (St.Br.44). Montanez will explain this the same way he did in opening—allegations regarding a file to which Montanez did not have access to will necessarily be less clear than allegations related to a document in Montanez's possession and attached to his petition (Open.Br.14). The State argues that Montanez only referenced the full file sparsely throughout the petition (St.Br.26), ignoring Montanez's argument that the context of his exhaustive pre-filing efforts to access the full file (and attachments reflecting the same) evidence that it was intention to make a *Brady* claim in his successive petition based upon it. Relatedly, the State asserts that Montanez requests that this court “excuse” his “failure” to expressly raise a *Brady* claim because Montanez was *pro se* (St.Br.45). Montanez requests no special treatment. Rather, he argues that as a *pro se* litigant his petition should be construed liberally and because the petition and its supporting documentation contained enough facts to make out the arguable basis of a *Brady* claim based on his still-concealed street file, he is entitled to second stage proceedings.

The State cites *People v. Petrenko*, 237 Ill.2d 490, 502-03 (2010) and *People v. Mars*, 2012 IL App (2d) 110695, ¶ 32 to support its assertion that Montanez did not include a *Brady* claim based on his full street file in his *pro se* petition (St.Br.42); however, these cases are distinguishable, where neither the claims in question, nor facts that could have substantiated them, were raised at all in the *pro se* petitions. *See Id.* Contrarily, in Montanez's case, as the State acknowledges, the *pro se* petition “recited the facts of how he learned about the basement file and eventually obtained the McDonnell Report.” (St.Br.44). Montanez additionally stated multiple times in the petition that ASA Walls should not have reviewed his file and only tendered

a single document (Open.Br.25). Moreover, unlike in *Mars* and *Petrenko*, Montanez included multiple attachments related to his street file and his inability to access it (Sup.C.36, 23-33, 32). In effect, Montanez’s petition complained (1) that the police report was kept from him at trial and (2) that he did not get to access the rest of the file. A *pro se* petitioner need only allege enough facts to make out a claim. *People v. Thomas*, 2014 IL App (2d) 12001, ¶ 48; *People v. Edwards*, 197 Ill 2d 239, 247 (2001). Montanez has done so in his *pro se* petition.

II. Remand is also necessary because, prior to Pierre Montanez filing his successive post conviction petition, the trial court erred by giving the State decision making power over what Montanez was entitled to access from his street file, which is fundamentally unfair, where the State was responsible for the initial suppression of the file.

The State’s maintains that Montanez asks this court to “extend” *People v. Bailey* or to “hold that [ASA Walls] comments violate *Bailey*.” (St.Br.17-18). As argued in opening, Montanez has never argued that the situation occurring in the circuit court explicitly violates *People v. Bailey*, 2017 IL 121450. Rather, Montanez claims that the fundamental principle expounded in *Bailey* is instructive as to this issue: The State should not interfere with the court’s independent determination of cause and prejudice regarding a *pro se* litigant’s claim at the initial stage (Open.Br.34).

The State misses the mark when it argues that the State’s participation was not improper because it occurred during the proceedings on the initial post conviction petition (St.Br.19). Whether the State participated before it knew Montanez would file a successive petition or not, the State’s participation led to Montanez receiving only a single document from his full file, which was unfair. Likewise, the State’s sole focus on Walls’ “comments” at the motion hearing (St.Br.35) is misplaced, where the heart of this issue is not that Walls told the circuit court that she did not think the State violated *Brady* at trial. Rather, the most egregious source of unfairness was that the State’s actions in reviewing the file determined the extent of Montanez’s access to it, unduly influencing the ultimate substance of Montanez’s petition.

The State also asserts that it was not unfair for Montanez to be made to argue against ASA Walls, because Montanez chose to proceed *pro se* in his initial petition (St.Br.21-22). But Montanez had already chosen to exercise his constitutional right to self representation prior to when he was unexpectedly informed of the existence of his street file. The ability to have counsel who is appointed on another matter contact an unaffiliated attorney in order to obtain documents that the Chicago Police Department fraudulently concealed for decades as part of a nefarious pattern of hiding exculpatory information is not something Montanez could have been expected to foresee when he decided to exercise his constitutional right to proceed *pro se* in his initial petition, which raised completely unrelated claims (St.Br.21).

The State asserts throughout its brief that this case somehow depends on this Court making a finding that ASA Walls was lying about the contents of the file. This is not so. Rather, this Court need only find that the procedure employed here—Montanez being promised an *in camera* review, said promise not being fulfilled, and ASA Walls reviewing the file instead of Montanez or counsel representing him—is unfair, and conflicts with other First District cases wherein defendants were appointed counsel in the same situation. ASA Walls reviewing the file left Montanez completely in the dark as to this entire process. It is not clear from the record whom ASA Walls subpoenaed to get the street file, whether what she received was, indeed, the full street file, from whom she received the trial file she utilized to compare to the street file, or whether and how Walls was actually in possession the full trial file. Montanez should not be forced to face this lack of clarity where other litigants raising the exact same claim have received the benefit of their own advocate reviewing their file for them.

The State likewise asserts that it was appropriate for Walls to conduct a review of the file because, if Walls knew that *Brady* material had been concealed, she would have turned it over to the defense (St.Br.30-31). The State relies upon out-of-context dicta in *Fields* to support this contention. 2017 WL 4553411, at *3. In *Fields*, the State supported its claim

that the information withheld from the defense was not material with the prosecutor's statement that the information in the file would not have influenced his charging decision. The court found that, irrespective of the prosecutor's statement, the jury was entitled to find that the evidence would influence a reasonable prosecutor, especially where there was evidence that the prosecutor in question would have turned over the evidence pretrial were he aware of it. *Id.* Thus, the statement in *Fields* that the prosecutor would have turned over the evidence in question was actually used to **support** the court's finding that the evidence may have been material, even though the prosecutor stated that it was not. Likewise, even though Walls said that nothing in the street file was exculpatory, such a finding is subject to dispute by an advocate for Montanez, or by a circuit court conducting *in camera* review.

Likewise, the State cites *Jones v. City of Chicago*, 856 F2d 985 (7th Cir. 1988), but that case simply held that a jury was entitled to find that the police, not the State, were liable for damages based on concealing a street file, where, in that specific case, there was affirmative evidence that the State was unaware of the file. *Id.* at 993. But even assuming that the courts in *Jones* and *Fields* found that the State did not conceal evidence, or would not have concealed evidence if it had known about it, there is no way of knowing in Montanez's case whether the trial prosecutor knew about the file, or what he would have done if he did.

The State, in asserting that Walls was not at fault for the non-disclosure of the evidence, fails to address the government's responsibility for *Brady* violations perpetrated by police officers. *See People v. Hopley*, 182 Ill. 2d 404, 438(1998) (the law is well settled that the same *Brady* rules apply even where the suppressed evidence was known only to police investigators and not to the prosecutors); *See also People v. Lyles*, 2022 IL App (1st) 201106-U ¶ 17 (finding that hidden street file "was undoubtedly suppressed by the State, even if inadvertently")(Open.Br.28). This established principle undercuts the State's assertion that this court should trust ASA Walls' assessment of the files unquestionably.

In opening, Montanez proposed several equitable methods of handling street file-based post conviction petitions that would be more fair than Walls reviewing the file (Open.Br.32). The State argues that Montanez’s request that this court provide guidance to future litigants wishing to raise street files-based post conviction petitions is “unnecessary” (St.Br.37). The State’s reasoning makes Montanez’s point. In arguing that there does not need to be a uniform rule regarding street files, the State suggests that litigants may be able to achieve advancement of their petition via agreed motion, or *in camera* review, or an ASA review of the file, or via the circuit judge requesting that a litigant’s former attorney view the file (St.Br.40). Rather than litigants filing post conviction petitions and facing incongruous results depending on what each circuit judge wants to do with a litigant’s street file claim or whether or not the appellate State’s attorney wishes to agree to a motion for summary advancement of a petitioner’s claim, a uniform rule would allow every litigant in possession of Gorman’s letter to receive the same treatment. Such a rule would prevent the result in *Montanez*—being promised an *in camera* review by the circuit judge, but facing the unfortuitous circumstance of said circuit judge being suspended from judicial duties, and later appearing before a new circuit judge who refuses to participate in the review the previous judge promised.

The State suggests that there is already a “workaround” for Montanez’s problem—signing the authorization form to allow Gorman to share the street file with one’s attorney (St.Br.38). This ignores that the majority of first stage post conviction litigants are unrepresented (St.Br.37-38). The State suggests that anyone unrepresented can put their former attorney in touch with Gorman; however, this ignores that Montanez tried to do so but was unsuccessful. It is not fair for one’s ability to obtain a street file to depend on the willingness or availability of an attorney who represented that person possibly decades ago to contact Gorman and (most likely *pro bono*, as most prisoners do not have the means to pay attorney fees) review a file from a decades-old case. Moreover, the State’s “workaround” ignores that said litigant may

have already alleged his former attorney's ineffectiveness in prior post conviction proceedings or on direct appeal, foreclosing the prior attorney's ability (or willingness) to recommence representation. Put simply, Judge Kennelley's court order did not account for the realities of post conviction litigation. Post conviction litigants begin proceedings unrepresented, are far removed in time from their trial attorneys, and often have made ineffectiveness claims against them, making it far more difficult than the Federal Court contemplated for a litigant to simply reach out to their former attorney and have their street file reviewed.

The State more specifically attacks one of the individual options proposed by Montanez—that street file litigants receive *in camera* review of these files (St.Br.33). The State mischaracterizes Montanez's request that an *in camera* review be conducted as a request that judges “bend to his demands by reviewing and producing his street file on his terms.” (St.Br.31). This could not be further from accurate, where it was Judge Claps who insisted that the documents be tendered to the court: “I don't care what Ms. Gorman says. I'm in charge of this train, not her. If she found documents belonging to you, she has no ability to possess those or do anything with them except notify the Court...” (R.219). The State argues vehemently that *in camera* review is not the job of the circuit court, ignoring that, had Judge Claps not been suspended, Montanez would have received an *in camera* review of his file by a judge who insisted forcefully upon conducting one.

The State cites several federal cases (St.Br.25-26) where courts declined to conduct *in camera* reviews, but these cases concern defendants' unsupported allegations of potential *Brady* violations. See *United States v. Caro-Muniz*, 406 F.3d 22, 30 (1st Cir. 2005) (plaintiff did not present a theory regarding the existence of potentially exculpatory evidence and made no showing that evidence would assist the defense). *United States v. Lucas*, 841 F.3d 796,805 (9th Cir.2016)(defendant's “conclusory allegations” did not meet the requisite threshold for materiality). Montanez's allegation, on the other hand, is not conclusory. Indeed, the First

District has held multiple times that receipt of Candace Gorman's letter forms the arguable basis of a *Brady* violation. *People v. Lyles*, 2022 IL App (1st) 201106-U; *People v. Banks*, 2020 IL App (1st) 180322-U.

This Court has recently spoken on the specific materiality requirements for an *in camera* review to be appropriate in Illinois. In *People v. Sauls*, 2022 IL 127732, the defendant requested remand for the circuit court to conduct an *in camera* review of confidential documents that could have helped impeach witnesses. *Id.* at ¶ 48. This Court held that the defendant's "good faith belief" of what the documents might contain was specific enough to require an *in camera* review to determine "whether they contain information that probably would have changed the outcome of defendant's trial." *Id.* at ¶ 49. *Sauls* supports Montanez's argument that an *in camera* review is an appropriate method of resolving street file-based post conviction petitions. As in *Sauls*, Montanez has a "good faith belief" that the documents in his street file contained exculpatory information that he did not receive before trial. Thus, an *in camera* review to determine whether such information exists, and was material, is appropriate. *Id.*

As argued in opening, *in camera* review is only one equitable option for litigants with Gorman street files (Open.Br.36-39). Appointment of counsel for the limited purpose of examining the file or automatic second stage proceedings for individuals who show that a street file was found in their case would also result in an equitable result—an advocate for the litigant reviewing the file. Conversely, the lack of uniform rules regarding the street files has already caused, and may continue to cause, incongruous results where defendants present identical street file based claims. The *Lyles* defendant presented virtually the same supporting evidence to the First District as Montanez, but Montanez was unable to obtain second stage proceedings and the appointment of counsel to review his file. The reason for this is because, in Montanez's case, the State unduly participated in a review of Montanez's file. This is "fundamentally unfair, and raises due process concerns." *Bailey*, 2017IL121450, ¶ 24. This Court should reverse the

denial of leave to file Montanez's successive post conviction petition and appoint counsel, to avoid depriving Montanez and future street file litigants the opportunity to ever see their street file and articulate the bases for their probable *Brady* claim, "which is unjust." *People v. Lyles*, 2022 IL App (1st) 201106-U.

CONCLUSION

For the foregoing reasons, Pierre Montanez, petitioner-appellant, respectfully requests that this Court reverse the circuit court order denying Montanez leave to file his successive post conviction petition, and the First District's decision affirming that order, and remand for second-stage proceedings including the appointment of counsel.

Respectfully submitted,

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COUNSEL FOR PETITIONER-APPELLANT

CERTIFICATE OF COMPLIANCE

I certify that this reply brief conforms to the requirements of Rules 341(a) and (b). The length of this reply brief, excluding pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 20 pages.


/s/Adrienne E. Sloan
ADRIENNE E. SLOAN
Assistant Appellate Defender

Docket Sheets for the Second-Stage Post-Conviction Proceedings in:

People v. Banks, People v. Lyles, and People v. Fallon

Sheet # 0001	CRIMINAL DISPOSITION SHEET Defendant Sheet# 1 of 5	Branch/Room/Location Criminal Division, Courtroom 404 2650 South California Avenue, Chicago, IL 60608			Court Interpreter		
Case Number 01CR1055301	Defendant Name BANKS, DION	Attorney PUBLIC DEFENDER		Court Date 2/23/2023	Court Call/Time 9:00 AM		
CB/DCN#	IR# 0560231	EM	Case Flag	Bond#	Bond Type	Bond Amount \$0.00	
CHARGES		* IN CUSTODY 10/08/2020 *				COURT ORDER ENTERED	CODES

C001 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJ 05/18/2006 Verdict of Guilty	R 5-11-23	
C002 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/I		
C003 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL		
C004 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL		
C005 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL		
C006 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJ 05/18/2006 Verdict of Guilty		
C007 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/I		
C008 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL		
C009 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL		
C010 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL		

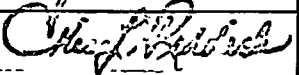
JUDGE: 	JUDGE'S NO.: 1916	RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:	VERIFIED BY:
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Sheet # 27	CRIMINAL DISPOSITION SHEET Defendant Sheet #1			Branch/Room/Location Criminal Division, Courtroom 101 2650 South California Avenue, Chicago, IL, 60608		Court Interpreter	
Case Number 01CR1055301	Defendant Name BANKS, DION		Attorney Name PORTER, RICHARD 006224360		Session Date 9/22/2020	Session Time 10:00 AM -	
CB/DCN# 014740608	IR # 0560231	EM	Case Flag	Bond #	Bond Type	Bond Amt	
CHARGES			COURT ORDER ENTERED			CODES	
C001 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJ 9/19/2006 DEFT. SENTENCED TO Death			<p><i>Reversed and Remanded.</i></p> <p><i>Trans to Joyce 9-30-2020</i></p>				
C002 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/I							
C003 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL							
C004 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL							
C005 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL							
C006 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJ 9/19/2006 DEFT. SENTENCED TO Death							
C007 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/I							
C008 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL							
C009 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FEL							
JUDGE: <i>LeRoy K. Martin</i>		JUDGE'S NO: 1844	RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:		VERIFIED BY:		

Sheet # 33	CRIMINAL DISPOSITION SHEET Defendant Sheet #1			Branch/Room/Location Criminal Division, Courtroom 304 2650 South California Avenue, Chicago, IL, 60608		Court Interpreter	
Case Number 01CR3126301		Defendant Name LYLES, WILLIAM D		Attorney Name SLOCUM, DIANE		Session Date 4/11/2023	Session Time 09:00 AM -
CB/DCN# 014959821	IR # 1193249	EM	Case Flag	Bond #	Bond Type D	Bond Amt \$500,000.00	
CHARGES			** IN CUSTODY 1/9/2002 ** COURT ORDER ENTERED				CODES
C001 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJURE 3/2/2004 Nolle Prosequi			<p>PC / PAW IDOC</p> <p>(P) Atty APD Diane Slocum</p> <p>(P) Atty still in review</p> <p>O/C 7/13/23 X on (P) file Review</p>				
C002 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/INJURE 3/2/2004 Nolle Prosequi							
C003 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FELONY							
C004 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJURE 3/2/2004 Nolle Prosequi							
C005 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/INJURE 3/2/2004 Nolle Prosequi							
C006 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FELONY							
C007 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJURE 4/5/2004 DEFT. SENTENCED TO IDOC							
C008 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/INJURE 3/5/2004 Verdict of Guilty							
C009 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FELONY							
JUDGE: Walton, Tyria B		JUDGE'S NO: 2260	RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:			VERIFIED BY:	

Sheet # 1		CRIMINAL DISPOSITION SHEET Defendant Sheet #1			Branch/Room/Location Criminal Division, Courtroom 500 2650 South California Avenue, Chicago, IL, 60608		Court Interpreter	
Case Number 01CR3126301		Defendant Name LYLES, WILLIAM D		Attorney Name WOLFE, MARC DAVID 003059944		Session Date 6/7/2022		Session Time 09:00 AM -
CB/DCN# 014959821		IR # 1193249	EM	Case Flag	Bond #	Bond Type D	Bond Amt \$500,000.00	
CHARGES			** IN CUSTODY 1/9/2002 ** COURT ORDER ENTERED				CODES	
C001 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJURE 3/2/2004 Nolle Prosequi			<p>MANA.</p> <p><i>Case transferred to 2nd stage</i></p> <p><i>P/D Appointed B/A 7/20/22</i></p>					
C002 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/INJURE 3/2/2004 Nolle Prosequi								
C003 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FELONY								
C004 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJURE 3/2/2004 Nolle Prosequi								
C005 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/INJURE 3/2/2004 Nolle Prosequi								
C006 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FELONY								
C007 720-5/9-1(A)(1) MURDER/INTENT TO KILL/INJURE 4/5/2004 DEFT. SENTENCED TO IDOC								
C008 720-5/9-1(A)(2) MURDER/STRONG PROB KILL/INJURE 3/5/2004 Verdict of Guilty								
C009 720-5/9-1(A)(3) MURDER/OTHER FORCIBLE FELONY								
JUDGE: Gaughan, Vincent M. <i>[Signature]</i>			JUDGE'S NO: 1553		RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK: <i>[Signature]</i>		VERIFIED BY:	

Sheet # 4		CRIMINAL DISPOSITION SHEET Defendant Sheet #1			Branch/Room/Location Criminal Division, Courtroom 208 2650 South California Avenue, Chicago, IL, 60608		Court Interpreter	
Case Number 05CR2007701		Defendant Name FALLON, JEREMIAH		Attorney Name ATASSI, RANDAH 006224360		Session Date 3/21/2023		Session Time 09:00 AM -
CB/DCN# 016254703		IR # 1257827	EM	Case Flag APP	Bond #	Bond Type	Bond Amt	
CHARGES			** IN CUSTODY 10/11/2005 ** COURT ORDER ENTERED				CODES	
C001 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 3/7/2007 DEFT. SENTENCED TO IDOC			<p>APD PARSONS</p> <p>— O IN DOC</p> <p>— ASKING IF EMERGENCY ADULT + MENTAL HEALTH CLINIC</p> <p>— O/C 6/14/23</p> <p>— W/ X A FINEST</p> <p>— A M/M. (W)</p>					
C002 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 2/5/2007 Nolle Prosequi								
C003 720-5/9-1(a)(2) MURDER/STRONG PROB KILL/INJURE 3/7/2007 DEFT. SENTENCED TO IDOC								
C004 720-5/9-1(a)(2) MURDER/STRONG PROB KILL/INJURE 2/5/2007 Nolle Prosequi								
C005 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 2/3/2010 DEFT. SENTENCED TO IDOC								
C006 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 2/5/2007 Nolle Prosequi								
C007 720-5/9-1(a)(2) MURDER/STRONG PROB KILL/INJURE 3/7/2007 DEFT. SENTENCED TO IDOC								
C008 720-5/9-1(a)(2) MURDER/STRONG PROB KILL/INJURE 2/5/2007 Nolle Prosequi								
C009 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 2/7/2007 Verdict of Guilty								
JUDGE: Lyke, John F., Jr.			JUDGE'S NO: 2143		RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:		VERIFIED BY:	

Sheet #	CRIMINAL DISPOSITION SHEET		Branch/Room/Location			Court Interpreter	
31	Defendant Sheet #1		Criminal Division, Courtroom 101 2650 South California Avenue, Chicago, IL, 60608				
Case Number	Defendant Name	Attorney Name		Session Date	Session Time		
05CR2007701	FALLON, JEREMIAH	Defender, Public 006224360		8/16/2022	10:00 AM -		
CB/DCN#	IR #	EM	Case Flag	Bond #	Bond Type	Bond Amt	
016254703	1257827		APP				
CHARGES		** IN CUSTODY 10/11/2005 ** COURT ORDER ENTERED					CODES
C001 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 3/7/2007 DEFT. SENTENCED TO IDOC		<p>Appellant's Agreed Motion for Summary Disposition is allowed.</p> <p>It is further ordered that Appellant having Pleaded an arguable claim of a Constitutional deprivation, the judgment of the Circuit Court dismissing Appellant's post-Conviction Petition is reversed, & the Cause is remanded to the Circuit Court for second stage post-Conviction Proceedings under 725 ILCS 5/122-5, including the appointment of counsel.</p> <p>To Judge Lyke, rm 208, for 8/23/22</p>					
C002 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 2/5/2007 Nolle Prosequi							
C003 720-5/9-1(a)(2) MURDER/STRONG PROB KILL/INJURE 3/7/2007 DEFT. SENTENCED TO IDOC							
C004 720-5/9-1(a)(2) MURDER/STRONG PROB KILL/INJURE 2/5/2007 Nolle Prosequi							
C005 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 2/3/2010 DEFT. SENTENCED TO IDOC							
C006 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 2/5/2007 Nolle Prosequi							
C007 720-5/9-1(a)(2) MURDER/STRONG PROB KILL/INJURE 3/7/2007 DEFT. SENTENCED TO IDOC							
C008 720-5/9-1(a)(2) MURDER/STRONG PROB KILL/INJURE 2/5/2007 Nolle Prosequi							
C009 720-5/9-1(a)(1) MURDER/INTENT TO KILL/INJURE 2/7/2007 Verdict of Guilty							
JUDGE: Reddick, Erica L. 		JUDGE'S NO: 2038	RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:			VERIFIED BY:	

No. 128740

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of
	)	Illinois, No. 1-19-1930.
Respondent-Appellee,)	
	)	There on appeal from the Circuit Court
-vs-	)	of Cook County, Illinois , No. 02 CR
	)	31134.
)	
PIERRE MONTANEZ,	)	Honorable
	)	Joseph M. Claps,
Petitioner-Appellant.	)	Judge Presiding.
)	

NOTICE AND PROOF OF SERVICE

Mr. Kwame Raoul, Attorney General, 100 W. Randolph St., 12th Floor, Chicago, IL 60601, eserve.criminalappeals@ilag.gov;

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Mr. Pierre Montanez, Register No. M30561, Pinckneyville Correctional Center, 5835 State Route 154, Pinckneyville, IL 62274

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On May 17, 2023, the Reply Brief was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the petitioner-appellant in an envelope deposited in a U.S. mail box in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Reply Brief to the Clerk of the above Court.

/s/Alicia Corona
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