

*Independent Investigation of  
State v. Richard E. Glossip*

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**Supplemental  
Report\***  
**Reed Smith LLP**

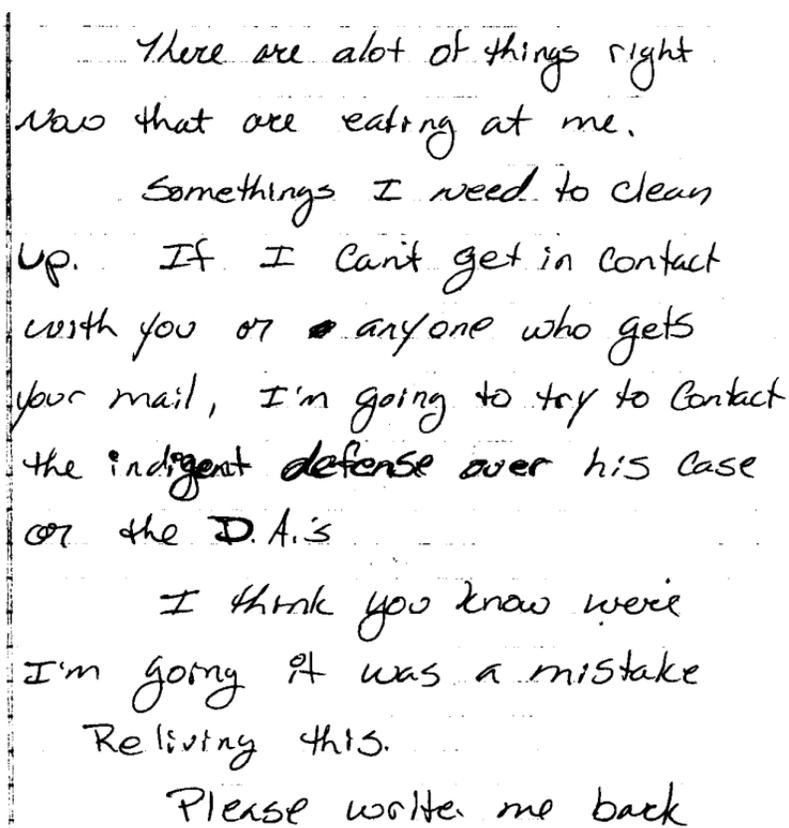
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August 9, 2022

Since the Reed Smith Investigation report (“Report”) was made public on June 7, 2022, we have continued to investigate and obtained additional information that further supports our findings, including that no reasonable jury hearing the complete record would have convicted Richard Glossip of first-degree murder. This is intended to supplement the June 7, 2022 Report and only details new information learned since that date.

### 1. Sneed’s Own Statement That His Testimony was a “Mistake”

Newly obtained evidence shows Sneed’s post-trial statements significantly call into question the reliability of his 2004 trial testimony. Specifically, Sneed’s 2007 statements, in his own handwriting, regarding Glossip’s case that “[t]here are a lot of things eating at me right now. There are somethings [sic] I need to clean up,” “I’m going to try to contact the indigent defense over his case or the D.A.’s,” and “I think you know were [sic] I’m going *it was a mistake*. Reliving this.”<sup>1</sup> These statements are deeply concerning considering the sole evidence of murder for hire was Sneed.



There are alot of things right  
now that are eating at me.  
Somethings I need to clean  
up. If I can't get in contact  
with you or anyone who gets  
your mail, I'm going to try to contact  
the indigent defense over his case  
or the D.A.'s  
I think you know were  
I'm going it was a mistake  
Reliving this.  
Please write me back

Notably, Gina Walker’s response does not mention that he testified to the truth, but instead states “[h]ad you refused, you would most likely be on death row right now. Mr. Glossip has had

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<sup>1</sup> 2007 Letter from J. Sneed (emphasis added).

two opportunities to save himself and has declined to do so both times.”<sup>2</sup> This attempt to silence Sneed when he is expressing concerns and that he is going to correct his testimony is extremely troubling.

Of course, the jury never heard that Sneed believed his testimony was a “mistake,” as this statement was made three years after Glossip’s trial, and this letter from Sneed has just been discovered. We have also recently obtained Sneed’s statements in 1997 that he relayed to an individual he was incarcerated with, Fred McFadden. These statements are inconsistent with Sneed’s trial testimony that Glossip hired him to murder Mr. Van Treese.

## **2. Sneed’s Statements in January 1997 to Fred McFadden Run Contrary to a Murder for Hire**

Sneed’s January 1997 statements to another inmate, Fred McFadden contradict his statements to police and court testimony that Glossip hired him to carry out a murder for hire. Specifically, in an affidavit recently provided by an Oklahoma County Public Defender Investigator,<sup>3</sup> Sneed told McFadden that Sneed “beat the victim harder because he was enraged about getting punched in the eye, receiving a black eye.”<sup>4</sup>

In May 1997, McFadden communicated with the District Attorney.<sup>5</sup> The State listed McFadden as a witness against Sneed, before he pled guilty,<sup>6</sup> and he was described in the State’s 1997 Bill of Particulars against Sneed<sup>7</sup> as “Fred McFadden will testify that the defendant openly bragged to him that he had murdered the victim by beating him severely.”

In his affidavit, Investigator Loughlin stated that McFadden recalled that Sneed in mid-January 1997 had a “so what” attitude, and was almost bragging or “proud.”<sup>8</sup> “Sneed takes most of the blame, and doesn’t mention Co-Defendant that much in his account of what happened. McFadden stated Sneed was a scary hombre who beat the victim harder because he was enraged about getting punched in the eye, receiving a black eye. He stated he looked for money and thereafter planned on running away with his old roofing crew.”<sup>9</sup>

There is no record of the District Attorney’s Office at any point turning over to the defense any interview notes or report of McFadden’s interview despite documentation showing they

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<sup>2</sup> August 3, 2007 Letter from G. Walker.

<sup>3</sup> McFadden was in contact with the District Attorney Bob Macy and his Assistant District Attorney Fern Smith. The District Attorney’s Office did not turn over any report or summary of McFadden’s statements to the defense either pre- or post-trial. Sneed also had a documented history of being suspended from Texas schools for fighting and had been arrested and convicted multiple times in Texas prior to him living in Oklahoma. A few months prior to the murder, Sneed missed a court date and an arrest warrant was issued. See Section 3 for more detail.

<sup>4</sup> August 3, 2022 Affidavit of Investigator C. Loughlin.

<sup>5</sup> May 1997 Letter from F. McFadden to District Attorney Bob Macy and Assistant District Attorney Fern Smith.

<sup>6</sup> June 1997 State’s Witness List at p. 3.

<sup>7</sup> 1997 Bill of Particulars at p. 3.

<sup>8</sup> August 3, 2022 Affidavit of Investigator C. Loughlin.

<sup>9</sup> August 3, 2022 Affidavit of Investigator C. Loughlin.

communicated with him regarding the substance of his anticipated testimony. The current District Attorney's Office recently denied an open records request for these potential-*Brady* materials stating the request falls "outside the scope of the Section 24A.8 of the Open Records Act."<sup>10</sup>

It is notable that Sneed's 1997 statements to McFadden about beating Mr. Van Treese because he got hit in the eye mirror Detective Bob Bemo's 2016 public statements that Sneed "probably got a little carried away because he was mad because he got hit. And ...before it was uh, too la—I mean, he ended up killing Barry and didn't, I don't know that he intended to, but he did."<sup>11</sup>

These statements by Sneed in 1997 contradict the State's theory presented to the jury (and the sole death penalty aggravator) of a murder for remuneration orchestrated by Glossip. A series of newspaper articles from January 1997 demonstrate that the police also initially described the motive for murder as "robbery."<sup>12</sup> The jury heard none of this.

We recently spoke with Assistant District Attorney Fern Smith to provide her an opportunity to discuss the Glossip case, the destruction of evidence and McFadden's statements given that she was the lead prosecutor on the case during those two events. Ms. Smith responded: "I am not interested in talking to you or giving my thoughts."

### **3. Justin Sneed School Disciplinary and Criminal History Contradicts the State's Portrayal of Him to the Jury as a Meek Non-Violent Individual**

We have recently learned that Sneed was suspended multiple times for fighting while in Texas schools and threatened with expulsion for his outbursts. As we detailed in our Report, he also had a juvenile and adult criminal record in Texas before moving to Oklahoma in 1996. Both his school disciplinary records and criminal records do not align with the State's portrayal of him to the jury as meek, non-violent and a follower. Since he was only 19 at the time of the murder, his school disciplinary and juvenile records are highly relevant regarding his demeanor and character at the time he killed Mr. Van Treese. None of this was presented to the jury to consider.

A timeline of Sneed's fighting in school and subsequent criminal history is documented in more detail below.

- The Oklahoma Department of Corrections Pre-Sentencing Report dated June 10, 1998 provided to Judge Freeman stated:

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<sup>10</sup> August 3, 2022 Letter from Assistant District Attorney Aaron Etherington.

<sup>11</sup> July 2016 Radical Media Interview of B. Bemo.

<sup>12</sup> "Motel Manager Speaks of Slaying," *The Oklahoman*, R. Medley, January 9, 1997.

**The subject reported having been arrested in Texas for the crimes of Bogus Checks, Burglary of a Habitation, and Making a Bomb Threat. He advised he was a juvenile when he was arrested for the Burglary of a Habitation and Making a Bomb Threat. He said he was given a one year probation sentence. He reported that the bogus check charge was still pending.**

In a 2015 interview, Justin Sneed's ex-wife, Sharrai Smoot, recalled that "He liked a girl at Eastland [high school] and he called in a bomb threat so she'd get out of school."<sup>13</sup>

- **November 12, 1990:** Cisco Junior-Senior High School Principal Jim Puryear writes a letter to Justin Sneed's parents informing them that "Justin and Shawn [Hollander] were fighting to the extent that two teachers had to separate the boys...I had no other choice but to suspend them from school for three days. I feel that this was a scheme cooked up by the boys to get out of school..."<sup>14</sup>
- **January 10, 1991:** Cisco Junior High Principal James Fitzgerald writes to Mrs. Sneed informing her that "Justin has been assigned Saturday class to be held on 1/12/91 for the following reason: Threatening to Fight."<sup>15</sup>
- **January 24, 1991:** Principal Fitzgerald writes to Mrs. Sneed informing her that "Justin has been assigned Saturday class to be held on 1/26/91 for the following reason: Too many detentions."<sup>16</sup>
- **May 10, 1991:** Principal Fitzgerald writes to Mrs. Sneed informing her that Justin was "skipping detentions and too many tardies."<sup>17</sup>
- **October 16, 1991:** Principal Mary O. Schustereit writes to Mrs. Taylor to inform her "that your son, Justin Sneed, was in a fight at school today and has been suspended from school for three days..." As set out below, Sneed was the aggressor and his violent outburst appears to have been unprovoked.<sup>18</sup>

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<sup>13</sup> D. Recer Interview of Sharrai Smoot, February 15, 2016.

<sup>14</sup> November 12, 1990 Letter from Cisco Junior-Senior High School Principal Jim Puryear.

<sup>15</sup> January 10, 1991 Letter from Cisco Junior High School Principal James Fitzgerald.

<sup>16</sup> January 24, 1991 Letter from Cisco Junior High School Principal James Fitzgerald.

<sup>17</sup> May 10, 1991 Letter from Cisco Junior High School Principal James Fitzgerald.

<sup>18</sup> October 16, 1991 Letter from Cisco Junior-Senior High School Principal Mary O. Schustereit.

Upon arriving at school he walked directly to another student and hit him three times. One blow was to the eye, which appeared to be cut and swollen immediately after being hit. The other student did not strike back or attempt to harm Justin in any way.

Justin has been suspended from school on two other occasions. Once on September 18th for fighting and again on September 23rd for throwing BB's in a classroom and chipping a student's tooth. He also received lunch detention on October 2nd for chasing a student and threatening him.

If Justin commits another serious offense at school he will be expelled for the remainder of the semester.

- **November 22, 1991:** Principal Schustereit writes Mrs. Taylor a letter informing her that:<sup>19</sup>

Justin was suspended from school on Friday November 22, 1991 due to his vulgar and profane language during detention. He also has refused to dress out for P.E. on several occasions. This is a requirement for class. While seated in the hall for not dressing out in P.E. he was insubordinate to the secretary who was in charge of the students at that time.

We cannot tolerate this behavior at school.

- **November 26, 1991:** Principal Schustereit writes Mrs. Taylor informing her that:<sup>20</sup>

Justin has been suspended from school and will not be allowed to attend classes Wednesday, November 27th. Justin has refused on numerous occasions to dress out for P.E. which constitutes insubordination. He will give us no explanation and will only say that he does not want to. Because this is a rule, this is not an acceptable reason and therefore I find it necessary to suspend him from school.

- **April 6, 1993:** Justin Sneed takes the school scoliosis test and is negative.<sup>21</sup>
- **August 1993:** 9<sup>th</sup> grade school year starts and Justin Sneed is a "no show."<sup>22</sup>
- **April 5, 1994:** Freddy Smoot, Justin Sneed's friend, commits a burglary of a building.
- **August 1, 1994:** O'Ryan Sneed is born to Sharrai Smoot and Justin Sneed.

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<sup>19</sup> November 22, 1991 Letter from Cisco Junior-Senior High School Principal Mary O. Schustereit.

<sup>20</sup> November 26, 1991 Letter from Cisco Junior-Senior High School Principal Mary O. Schustereit.

<sup>21</sup> Cisco Independent School District Student Individual Health Record.

<sup>22</sup> State of Texas Academic Achievement Record for Justin B. Sneed, Cisco High School (August 16, 1993).

- **August 13, 1994:** Justin Sneed and Sharrai Smoot get married (he was 16, she was 20 years old) in Eastland County, TX.<sup>23</sup>
- **July 12, 1995:** Justin Sneed writes a bad check at Wal-Mart for \$115.83.<sup>24</sup>
- **August 22, 1995:** Ariel Sneed is born. Sharrai Smoot stated that Justin Sneed is not the biological father but he signed the birth certificate.
- **November 9, 1995:** Eastland County District Attorney files charges of Theft by Check against Justin Sneed (Class B Misdemeanor).<sup>25</sup>
- **May 2, 1996:** Justin Sneed failed to appear for trial. His bond of \$500 was forfeited.
- **May 6, 1996:** Eastland County Judge Scott Bailey orders the re-arrest for Justin Sneed with a \$2000 bond.<sup>26</sup>
- **May 20, 1996:** Eastland County Sheriff arrests Justin Sneed and takes him to county jail. He posts \$2000 bond and his case is reset for pre-trial on August 6, 1996.<sup>27</sup>
- **July 3, 1996:** Justin Sneed starts staying at Best Budget Inn motel.<sup>28</sup>
- **October 16, 1996:** Justin Sneed fails to appear, forfeits the bond of \$2000, and the Court issues an arrest warrant.<sup>29</sup>
- **May 28, 1997:** Theft by check case goes to trial and Justin Sneed fails to appear (because he is in Oklahoma County jail for murder since January 14, 1997).<sup>30</sup>

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<sup>23</sup> Marriage License, County of Eastland, State of Texas (August 8, 1994).

<sup>24</sup> *State of Texas v. Justin Blayne Sneed*, Complaint, Case No. 95-329 (November 8, 1995).

<sup>25</sup> *State of Texas v. Justin Blayne Sneed*, Complaint, Case No. 95-329 (November 8, 1995).

<sup>26</sup> *State of Texas v. Justin Blayne Sneed*, Judgment Nisi on Forfeiture of Bond, Case No. 95-329 (May 6, 1996).

<sup>27</sup> *State of Texas v. Justin Blayne Sneed*, Bond Disposition Report, Case No. 95-329 (May 20, 1996).

<sup>28</sup> January 14, 1997 Interrogation of J. Sneed.

<sup>29</sup> *State of Texas v. Justin Blayne Sneed*, Affidavit of Surety to Surrender and Issuance of Warrant, Case No. 95-329 (October 16, 1996).

<sup>30</sup> Sheriff's Return, June 10, 1997 "The Warrant recalled. Replaced with Warrant #95-329-3 B/F Bond Increased (In Jail in Oklahoma for Murder)."

**4. Police's Premature Release of Evidence Before Locating the Actual Killer (Sneed)**

We have recently obtained documentation from the Oklahoma City Police Department demonstrating the premature release of evidence in January 1997. First, on January 13, 1997, before police had even spoken with Sneed, Detective Bemo approved release of the blue-dye stained \$23,100 collected from Mr. Van Treese's trunk.<sup>31</sup>

The police did not apprehend and interview Justin Sneed until January 14, 1997. First degree murder charges were not filed against Glossip until January 23, 1997. Releasing evidence this early on in the investigation is not a standard nor accepted police practice, and we have been unable to discern any rationale for this release of evidence.

Case # 97-002261 OCPD  
**PROPERTY DISPOSITION OR RELEASE**

Name Donna Van Treese Date 1/13/97  
 Address 8 Ketchum Creek Pl. - Lawton, OK Tel. 405/509-2575  
 Notified on 1/10/97 of the below items in the Police Property Room.  
23, 218.64

Donna Van Treese  
 Signature of receiving party

OK TO RELEASE  
 DISPOSE AS AUTHORIZED BY CITY ORDINANCE  
 HOLD FOR EVIDENCE -

Return to property management unit within 14 days

Det. Bob Bemo  
 Officers signature

Detective Bemo and Lieutenant Phil Hoile released more evidence on January 21, 1997.

Case # 97-002261 OCPD  
**PROPERTY DISPOSITION OR RELEASE**

Name Van Treese, Ken Date 1-21-97  
 Address \_\_\_\_\_ Tel. \_\_\_\_\_  
 Notified on 1-21-96 by Hoile. of the below items in the Police Property Room:  
wallet / w All contents.  
MISC. Papers #18

[Signature]  
 Signature of receiving party

OK TO RELEASE  
 DISPOSE AS AUTHORIZED BY CITY ORDINANCE  
 HOLD FOR EVIDENCE -

Return to property management unit within 14 days

Donnie Smith / Bemo. Hoile  
 Officers signature

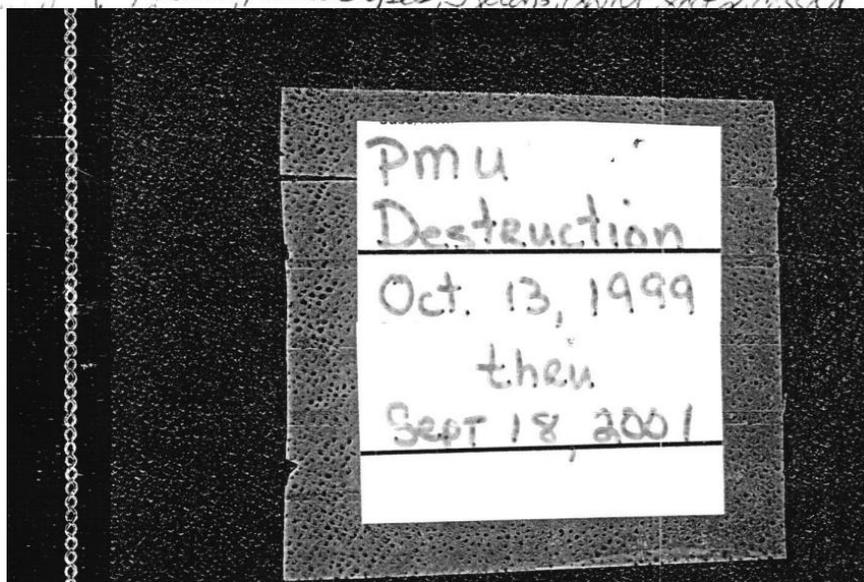
<sup>31</sup> January 13, 1997 OCPD Property Disposition or Release Card.

The premature release of evidence before talking with the actual killer (January 14) and before charges were even filed against Glossip (January 23) seems to demonstrate the police's tunnel vision and narrow focus on Glossip from the beginning. It also deprived Glossip's defense of examining this evidence and performing its own testing.

## 5. Destruction of Evidence

We spoke with retired Officer Joseph McMahon who informed us that Betty Prater was the Oklahoma City Police Department's Property Management Unit employee<sup>32</sup> who filled out the Property Management Unit Destruction Log and placed the items for destruction in box 27 on November 10, 1999.<sup>33</sup> We learned that Ms. Prater is recently deceased.

11-7	Def Assault Bet	44-75283	B	27
11-9	Carb, TRANS CARD, Auto License, Sams CARD, SA BENCH CARD, WALMART	99-95427	B	27
11-9	Leather and C necklace	99-95311	B	27
1-10	Truck flashlight, trash bag	99-95411	B	27
1-10	Steady Knife, 1 day samples of latex gloves, contumacious	99-95395	B	27
1-10	Misc photo, Belt, Whip, Hook + Key, Hook	99-95390	B	27
1-10	Boots, clothing, Paint Cans, Paint Rag	99-95409	B	27
1-10	Def. Life, Note, glasses, Keys, knife, container, papers	99-95393	B	27
1-10	Deposit Book, Receipts, Def. glasses	99-95391	B	27
1-10	Coveralls, VHS TAPE, White knit cap, Door Lock	99-95396	B	27
1-10	Cans, Bag, envelope, casing, fragments, unsighted pan, clothes	99-95406	B	27
1-10	1 Bag of Bloody Clothes	99-95392	B	28
1-10	1 Knife, 1 shirt, 3 envelopes, 3 pairs T-shirt shirt, assault	99-95391	RA	28



<sup>32</sup> July 2022 Interview with Joseph McMahon.

<sup>33</sup> PMU Destruction Log, Oct. 13, 1999 thru Sept. 18, 2001.

**6. Glossip’s Appellate Attorney Admits No Strategy Decision in Failing to Raise the Destruction of Evidence and Jury Instructions Issues**

We interviewed Glossip’s direct appeal attorney following the retrial, former Oklahoma Indigent Defense System (“OIDS”) attorney Janet Chesley-Davis, who informed us that failing to raise the destruction of evidence and *Pink v. State* jury instruction issues was not an intentional strategy decision.<sup>34</sup> She also stated these should have been raised as they both involved serious due process violations.<sup>35</sup>

We also interviewed Glossip’s attorney from the first direct appeal, Matthew Haire,<sup>36</sup> who informed us that he met with Sneed in 2000.<sup>37</sup> Haire did not find Sneed to be meek or impressionable. Sneed informed him that at the time of the murder, Sneed “was just coming down from a two-day meth run” and “was still kind of out of it.”<sup>38</sup> Haire stated he has always had concerns over Glossip’s case.

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<sup>34</sup> August 2022 Interview of J. Chesley-Davis.

<sup>35</sup> *Id.*

<sup>36</sup> Haire was at the time an attorney with OIDS and later an Oklahoma Assistant Attorney General.

<sup>37</sup> July 2022 Interview of M. Haire.

<sup>38</sup> *Id.*