

IN THE CIRCUIT COURT
FOR BALTIMORE CITY, MARYLAND

ADNAN SYED,
Petitioner,

v.

STATE OF MARYLAND,
Respondent

Case No. _____
(original case # 199103042-46)

* * * * *

PETITION FOR POST-CONVICTION RELIEF

Petitioner, Adnan Syed, by and through his attorney, C. Justin Brown, hereby petitions this Court for post-conviction relief pursuant to Maryland Criminal Procedure Article §§7-101 to 7-109 and Maryland Rules 4-401 to 4-408. Mr. Syed, inmate number 293-908, is currently incarcerated at the North Branch Correctional Institution in Cumberland, Maryland.

Pursuant to Maryland Rule 4-402(c), which states that "amendment of the petition shall be freely allowed to do substantial justice," undersigned counsel will continue investigation of this case and, if applicable, raise additional claims in an amendment to this Petition.

I. STATEMENT OF THE CASE

Syed was convicted by a jury in the Circuit Court for Baltimore City on February 25, 2000, for first-degree murder, robbery and kidnapping and false imprisonment.¹

¹ Syed's first trial for the same alleged offenses ended in a mistrial. The first trial was before Judge William Quarles. At one point late in the trial, Judge Quarles called the attorneys to the bench for a conference. While there, a dispute arose, and Judge Quarles called Syed's attorney, Christina Gutierrez, a liar. This remark was overheard by members of the Jury. Judge Quarles subsequently granted Gutierrez' Motion for Mistrial. 12/15/99, 250-255.

Judge Wanda Keyes Heard sentenced Syed on June 6, 2000, to the following: life in prison for murder; 30 years in prison for kidnapping, consecutive to the life sentence; and 10 years for robbery, concurrent to the 30 years for kidnapping and consecutive to the life sentence. The trial court also merged the false imprisonment and kidnapping counts.

Syed filed a timely appeal to the Court of Special Appeals, which was denied in an unreported opinion filed on March 19, 2003. He raised the following issues in his appeal:

1. Whether the State committed prosecutorial misconduct, violated *Brady*, and violated Appellant's Due Process rights when it (1) suppressed favorable, material evidence of an oral side agreement with its key witness, and (2) when it introduced false and misleading evidence;
2. Whether the trial court committed reversible error in prohibiting Appellant from presenting evidence to the jury;
3. Whether the trial court erred in admitting hearsay in the form of a letter from the victim to the Appellant, which is highly prejudicial;
4. Whether the trial court erred in permitting the introduction of the victim's 62-page diary, which constituted irrelevant prejudicial hearsay.

Pursuant to Md. Code Ann., Crim. Pro. § 7-103, this is Syed's first Petition for Post-Conviction relief, and it is filed less than 10 years from the date on which his sentence was imposed.

II. STATEMENT OF THE FACTS

a. Introduction: A Case Based on One Witness, Alibi Witnesses Never Contacted

The murder of Hae Min Lee, a Woodlawn High School student who disappeared on January 13, 1999, was a whodunit.

There were no witnesses. There was no forensic evidence of any significance. The body was not found until nearly a month later, in Leakin Park, Baltimore. 1/31/00, 42.²

² Citations to the trial transcript are abbreviated in this Petition by first giving the date of the testimony, followed by the page number.

As the police investigated, they quickly focused on Jay Wilds, a fellow Woodlawn student who was a reputed drug dealer. 2/4/00, 188-19. Upon being called in for questioning, Wilds told police numerous different stories, alternately exculpating and inculpating himself. 2/10/00, 48-153. As Wilds would later explain at trial, he felt threatened while he was being questioned, and he thought that the more he said about Lee's ex-boyfriend, Adnan Syed, the less likely he was to be charged with a crime. 2/14/00, 47-62.

Eventually, Wilds settled on a final version of his story – the story that would lead to murder charges against Syed. As the case unfolded, the prosecution would rely almost entirely on the testimony of Wilds. The story line was sensational: a Pakistani-American honor roll student had killed his ex-girlfriend, a Korean-American honor roll student. The media coverage was extensive. *See e.g., Amy Oakes, Ex-boyfriend is charged in teen's killing, The Baltimore Sun, March 1, 1999, http://articles.baltimoresun.com/1999-03-01/news/9903010074_1_min-lee-young-lee-woodlawn.*

In Wilds' story, Syed and Wilds went to the mall together the morning of January 13, 1999. 2/4/00, 123. Afterwards, Syed lent Wilds his car on the condition that Wilds dropped Syed off at school. *Id.* at 125. Wilds also said Syed lent him his cellular phone, so Syed could call Wilds when he needed a ride. *Id.* at 126. Some time in the early afternoon, according to the State's theory, Syed convinced Lee, the eventual victim, to give him a ride. They left school together. Then, according to the State, the two friends drove to the parking lot of the nearby Best Buy, where Syed allegedly strangled her. 1/27/00, 104-105. There were no witnesses to the alleged crime, even though it

supposedly took place in an open, public parking lot. Wilds claimed that, right after the murder, Syed called him from a pay phone at the Best Buy parking lot. Based on phone records, that call was made at 2:36 p.m. 2/4/00, 130. The State supported this timeline in its closing arguments. 2/25/00, 66.

Wilds claimed that, after receiving the call from Syed, he drove to meet Syed at the Best Buy parking lot. (Through cellular tower records, the State theorized that Wilds actually received this call while he was at the house of a friend, Jen Pusiteri, 2/25/00, 66). Syed, wearing bright red gloves, allegedly showed Wilds Lee's body, which he had moved to the trunk of her car. 2/4/00, 131. After showing the body, Syed allegedly drove away in Lee's car, and Wilds followed. 2/4/00, 132. Later that night, Wilds claimed, he and Syed went to Leakin Park and buried the body (although Wilds claimed he did not actively participate). 2/4/00, 150-52. The body was discovered on February 9, 1999, by Alonzo Sellers, who stumbled upon it while looking for a place to urinate. 2/17/00, 187.

What did not come out at trial, however, was the testimony of numerous witnesses who were with Syed around the time when the murder allegedly took place. The most important witness, Asia McClain, had a conversation with Syed lasting until 2:40 p.m. in the library adjacent to the Woodlawn campus. Despite a willingness to testify, she was never contacted by defense attorney Christina Gutierrez. McClain's boyfriend, Derrick Banks, also saw Syed that afternoon when he went to pick up McClain. He too was never contacted by the defense. Finally, Deborah Warren testified at trial as a State's witness, but Gutierrez never asked her about a statement she gave police in which she claimed to have seen Syed around the same time as the murder took place.

b. One Witness, Three Stories

Jay Wilds was the only person who could link Syed to the crime. Wilds was one year older than Syed and Lee, and he also graduated from Woodlawn High School. 2/4/00, 117. While Syed and Lee were in the school's gifted and talented program, Wilds was the person who sold marijuana to the younger students. 2/4/00, 118-19.

Police interviewed Wilds three separate times. Each time he told a different story. 2/10/00, 41-44. Wilds admitted that he lied to investigators on multiple occasions. 2/4/00, 222. The first time he spoke with police, he stated that he had nothing to do with the killing or burying of the victim, and did not know anything about the event. 2/4/00, 229. During a subsequent interview, Wilds lied about the location of the victim's car and then physically directed the detectives to a false location. 2/10/00, 68-72. Additionally, Wilds took the police to a false location where he allegedly first saw the body, lied about the location of his disposed clothes, and withheld the names of friends who he thought could corroborate his story. 2/10/00, 125-127.

The police turned off the tape recorder several times during his interview. 2/10/00, 47-50. Eventually, Wilds agreed to plead guilty (as an accessory after the fact) and cooperate against Syed. 2/15/00, 113-119. The State's Attorney's Office provided Wilds with a pro bono attorney to negotiate this deal. *Id.* at 130.

c. The Timeline: A Call from Best Buy at 2:36

Wilds dated Stephanie McPherson, who was also part of the school's gifted and talented program. It was through McPherson that Wilds and Syed knew each other. 2/4/00 at 117. McPherson was the school's prom queen, Syed the prom king. Wilds

testified that he was not jealous of Syed's relationship with McPherson, 2/14/00, 66, although another witness testified that McPherson had feelings for Syed. 2/17/00, 32.

According to Wilds, on January 13, 1999, he and Syed went to the Security Square Mall to purchase a birthday gift for McPherson. Syed allowed Wilds to keep his car as long as Wilds drove Syed to school and promised to pick him up later. Because Wilds did not have a cellular phone of his own, Syed left his phone with Wilds. 2/4/00, 123-126.

Wilds' testimony was inconsistent regarding the exact time line on January 13. However, Wilds was clear, if not emphatic, on the following sequence, which was supported at trial by telephone records:

1. Wilds received a call from Syed, who was calling from a payphone in the Best Buy parking lot. Syed asked Wilds to meet him at the parking lot. 2/4/00, 130.
2. Wilds drove to the Best Buy parking and met Syed, who supposedly showed him the body of Lee in the trunk of her car. Wilds smoked a cigarette. Wilds and Syed drove off, one car following the other. They drove to the end of I-70, where Syed took something from Lee's car and left the car there. The two then drove away in Syed's car, with the intention of finding and smoking some marijuana. 2/4/00, 131-34.
3. After all of this, Wilds testified that he called a friend, Jen Pusateri, to ask her about finding some marijuana. *Id.* at 135. That call took place at 3:21 p.m. *Id.*

Wilds testified that, after this, he took Syed back to school for track practice. Practice started at 3:30 p.m. 2/4/00, 142-43. Wilds picked Syed up after practice and they

went to hang out at the house of a mutual friend, Kristi Vinson. *Id.* at 144. According to Wilds, they eventually left the house to get rid of the body. *Id.* at 147.

Wilds, who claimed to have participated in the murder out of fear that Syed would report him for drug dealing, took two shovels from his house and put them in Syed's car. According to Wilds, they picked up the Lee's car, from the end of Route 70, and drove it to Leakin Park, where the body was buried. *Id.* at 147-48.

Wilds testified that, although he helped dig a hole in the woods, he refused to help Syed carry the body, so Syed continued alone (even moving the body a good distance through heavy forestation). *Id.* at 151-54. Wilds testified that after the body was buried, he and Syed drove to a mall where they got rid of some evidence, then went to Wilds' home. *Id.* at 157. Wilds changed clothes and had Pusateri pick him up. They went to a Super Fresh parking lot, where Wilds threw away his clothes and the shovels used to bury the body. *Id.* at 158.

On February 9, 1999, Sellers found Lee's body buried in Leakin Park. 1/31/00, 42. Sellers later testified that he found the body when he went to find a place to urinate. 2/23/00, 9. Evidence presented at trial showed that Sellers would have had to walk 127 feet from the nearest pull off in order to find the body. 1/31/00, 100. A police detective stated that Sellers was considered a suspect. 2/17/00, 225. Sellers was called as a defense witness, but the Judge would not admit evidence of his prior conviction for indecent exposure. 2/23/00, 90.

d. A Lack of Forensic Evidence

The only physical evidence linking Petitioner to the crime was his fingerprints in

the victim's car. This was entirely unremarkable, however, because Syed and Lee, although no longer dating, had remained friends. Syed had been in her car on numerous occasions. 2/23/00, 191.

Hairs found on Lee's body were compared to Syed, but did not match. 2/1/00, 116. The hairs were not compared to anyone else. *Id.* Likewise, investigators compared the fibers from Lee's clothes to Syed's clothes, but did not find a match. 2/1/00, 165. Police seized Syed's boots and took soil samples to compare to the soil at the burial sight, but again, there was no match. 2/1/00, 170-71.

The police also recovered a bloody shirt from Lee's car. A DNA test showed that Syed was not the source of the blood. 2/2/00, 27. The medical examiner testified that the blood on the shirt was likely due to a pulmonary edema that resulted from strangulation. 2/2/00, 57.

The medical examiner stated that the victim had been strangled but did not know a specific time or place when she had been killed. 2/2/00, 70-72.

e. Smoke and Mirrors: Religion and Cell Towers

With an unreliable star witness and virtually no physical evidence, the State relied on smoke and mirrors to round out its case. First, the State attempted to relate the murder to Syed's Muslim religion. Although it was established at trial that Syed and Lee maintained a friendly relationship after their breakup, 2/3/00, 123, the State theorized that Syed viewed Lee as a threat to his religious beliefs, thereby providing a motive to commit murder. 1/27/00, 101.

The State called a purported cellular phone expert, Abe Waranowitz, to track

Wilds' physical location throughout the afternoon and evening of January 13, and thereby corroborate his story. Despite lengthy testimony, Waranowitz did little to advance the State's case. Most of his testimony concerned Jay Wilds' location after the murder was committed. 2/8/00, 60-102, 2/9/00, 56-103. Waranowitz admitted that his testing methods could not pin-point where the call was made within the range of the cell cite. 2/9/00, 150. He also admitted that some calls could activate as many as two cellular sites. 2/8/00, 97-98.

f. Gutierrez' Defense Case

While the defense had a ready-made alibi – or at least very strong evidence to undermine Jay Wilds' story – Gutierrez did not put on a significant defense case. Rather she called mostly character witnesses who could explain Syed's religion and the significance of Ramadan. 2/23/00, 249-281, 2/24/00, 110-125, 161-180, 187-195. In some ways this fell right into the State's trap – by legitimizing the State's efforts to make the case about religion – rather than a lack of evidence.

Gutierrez' ineffectiveness was not surprising. Right around the time of this trial, she was having personal troubles. In addition to health problems stemming from multiple sclerosis and diabetes,³ Gutierrez was suffering from financial troubles. It was later revealed that at least 20 of her clients lodged claims against her for misappropriation of funds. Sarah Koenig, *Attorney is drawing numerous complaints: Clients say Gutierrez cheated them*, The Baltimore Sun, July 19, 2001, http://articles.baltimoresun.com/2001-07-19/news/0107190108_1_gutierrez-trust-fund-clients. Meanwhile, around the same

³ At one point in the trial, Gutierrez complained of health problems, stating to the Judge that she was not feeling well and she had vomited while walking between her office and the courthouse. 2/9/00, 164.

time as the Syed trial, in another high-profile case, *State v. Merzbacher*, Gutierrez admitted on the witness stand that she had failed to convey a plea offer to a client. *State v. Merzbacher*, Circuit Court for Baltimore City, P.C. no. 8248. The Court of Appeals disbarred her, by consent, on May 24, 2001.

III. LEGAL BACKGROUND

a. Ineffective Assistance of Counsel

Courts evaluate claims of ineffective assistance of counsel by applying the two-part test established by the Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984). *Strickland* requires that a petitioner first establish that his trial attorney performed deficiently by committing an unreasonable error. *Id.* at 687. Next, the petitioner must establish that his trial attorney's deficient conduct prejudiced the defense. *Id.* To establish prejudice under the second prong of *Strickland*, the petitioner must establish "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceedings would have been different." *Id.* at 694.

In *Strickland*, the Supreme Court explained that, "a defendant need not show that counsel's deficient conduct more likely than not altered the outcome of the case." *Strickland*, 466 U.S. at 693; *see also Jones v. State*, 138 Md. App. 178, 207-08 (2001) (quoting this same sentence from *Strickland* referencing the "more likely than not" language). "Nor must the prejudicial effect satisfy a preponderance of the evidence standard." *Jones*, 138 Md. App. at 208. As explained by the Court of Appeals, the prejudice prong of *Strickland* requires proof that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been

different.” *Redman v. State*, 363 Md. 298 (2001) (quoting *Williams v. Taylor*, 529 U.S. 362, 391 (2000)). When there is a “reasonable” probability that the outcome of the trial was influenced by counsel’s errors, then fundamental reliability has been undermined, and the defendant has been denied his constitutional right to effective representation. *Strickland*, 466 U.S. at 693. Put another way, prejudice exists when the attorney’s deficiency gives rise to “a probability sufficient to undermine confidence in the outcome” of the trial. *Id.* at 694.

Each attorney error may be considered individually and cumulatively under *Bowers v. State*, 320 Md. 416, 436, 578 A.2d 734, 744 (1990). In *Bowers*, the Court of Appeals explained that even if separate unreasonable errors by the trial attorney did not cause enough prejudice alone to warrant a new trial, the errors can be considered cumulatively. Under *Bowers*, the prejudice flowing from these individual errors, when combined, can create a reasonable probability that but for trial counsel’s errors the result of the proceedings would have been different.

IV. POST-CONVICTION CLAIMS

1. Failure to Establish a Time Line

Gutierrez was ineffective for failing to establish a timeline that would have disproved the State’s theory and shown that Syed could not have killed the victim as described by Jay Wilds. It was the State’s theory, supported by telephone records introduced at trial, that Lee was killed prior to 2:36 p.m. on January 13, 1999. Under this theory, Syed strangled Lee in the Best Buy parking lot, then called Wilds at 2:36 to ask him to come to the parking lot.

However, Gutierrez had available to her multiple witnesses who could have disproven this theory. For whatever reason, she ignored this evidence, from the pre-trial investigation stage to post-trial motions. First, she had a potential witness in Asia McClain, an honors student who stated that she was having a conversation with Syed in a public library adjacent to the school until 2:40 p.m. At 2:40, McClain said, her boyfriend, Derrick Banks, came to pick her up. Banks, who briefly conversed with Syed at that time, was accompanied by his best friend, Gerrod Johnson. Evidence obtained from Gutierrez's file shows that she was aware that Asia McClain was a potential witness. Ex. 1 (Gutierrez notes). However, neither Gutierrez nor any member of the defense team ever contacted McClain, who later provided an affidavit in an effort to reveal the truth about that day. Ex. 2 (McClain Affidavit).

In addition to these witnesses, Gutierrez could have elicited supporting testimony from one of the State's witnesses, Deborah Warren. In a statement that Warren gave police prior to trial, she stated that she had seen Syed at 2:45 p.m. that day. Ex. 3 (Warren statement to police). According to Warren, Syed had his track bag and was on his way to practice. Warren also told police that she had seen Lee, the victim, between 2:45 and 3:15. For reasons unknown, Gutierrez never asked Warren on cross-examination about these statements.

Not only could Warren's testimony have helped Syed establish an alibi, but it could have shown that Syed and Lee did not leave the school together, as the State theorized. This hole in the State's case was widened by the testimony of Inez Butler, who testified that she saw Lee alone at the school as late as 2:20 p.m. 2/4/00, 20.

The Court of Appeals has held that failure of counsel to call an alibi witness, or a witness corroborating an alibi witness, may amount to ineffective assistance of counsel. *In re: Parris W.*, 363 Md. 717 (2001). In this case, the Court of Appeals cites approvingly to *Johns v. Perini*, 462 F.2d 1308, 1313 (6th Cir. 1972), which held that “counsel’s failure to investigate and present [defendant’s] alibi deprived him of his constitutional right to effective assistance of counsel.”

Gutierrez was ineffective for never pursuing these witnesses and establishing a timeline that could have debunked the State’s theory of the case, and severely undermined the testimony of Jay Wilds. She was ineffective for failure to investigate these witnesses, failure to provide notice of an alibi witness (if necessary), and failure to effectively cross-examine Warren. Gutierrez’ failure to take these basic steps, at the very least, undermines confidence in the outcome of the trial.

2. Failure to Investigate Asia McClain

Gutierrez’ failure to interview Asia McClain and possibly call her as a defense witness qualifies as ineffective assistance of counsel.

As described above, Gutierrez was aware that McClain was a potential alibi witness – or at the very least she could have undermined the State’s theory of the case and created reasonable doubt in the eyes of the Jury. A note found in Gutierrez’ case file states the following:⁴

“Asia McClean → saw him in the library @ 3:00

⁴ After Gutierrez died, Syed requested her files. Gutierrez’ firm allowed Syed’s family to retrieve the files from storage. The files remained in the hands of Syed’s family until they were turned over to undersigned counsel in 2009.

→Asia boyfriend saw him too.”

Ex. 1 (Gutierrez note).

Yet, despite being aware of this, Gutierrez never even contacted McClain. As McClain later wrote in her March 25, 2000, Affidavit, “No attorney has ever contacted me about January 13, 1999 and the above information.” Ex. 2 (McClain Affidavit). There is no possible strategic reason why a defense attorney would not even investigate a possible witness.

In addition to the Affidavit, McClain gave other statements showing that she had seen Syed at the library that day, and that she was willing to testify. In a March 1, 1999, letter to Syed, McClain wrote, “I’m not sure if you remember talking to me in the library on Jan. 13th, but I remembered chatting with you. Throughout you’re (sic) actions that day I have reason to believe in your innocence (sic).” Ex. 4 (McClain’s March 1, 1999 letter to Syed). In another letter that McClain wrote the next day, she asked Syed, “Why haven’t you told anyone about talking to me in the library? Did you think it was unimportant, you didn’t think that I would remember? Or did you just totally forget yourself?” Ex. 5 (McClain’s March 2, 1999 letter).

Finally, on numerous occasions, McClain spoke to members of Syed’s family and told them that she was with Syed that afternoon and that she was willing to testify.

McClain would have been a credible witness. She was part of the Woodlawn High School “gifted and talented” program. She was not related to Syed; in fact she did not even know him very well. In addition, she had other witnesses who could corroborate her story: her boyfriend, Derrick Banks, and Banks’ best friend, Gerrod Johnson. If she had

testified, she would have been among the most credible witnesses who took the stand.

3. Failure to Move for a New Trial based on McClain's Statements

Even if Gutierrez had been unaware of the existence of Asia McClain prior to the time of trial, she could have raised the issue in a Motion for New Trial. In fact, following the jury verdict and prior to sentencing, Syed's family urged her to do just that.

In a series of letters, one written by Syed's parents and one written by Syed, they urged Gutierrez to raise the Asia McClain issue in the Motion for New Trial. Ex. 6 (3/30/00 letter from Rahman to Gutierrez). When Gutierrez did not respond to Syed's repeated attempts to meet with her or speak to her, the parents, Mr. and Mrs. Syed Rahman, finally wrote a letter to Judge Heard, which was copied to Gutierrez, ASA Kevin Urick and the Office of the Public Defender for Baltimore City. In that letter, the parents made an oblique reference to the McClain issue. The letter stated:

For the past two weeks Adnan has been trying to get in touch with Ms. Gutierrez. She has not spoken to him on the phone, nor come to see him. He waited patiently day after day hoping she would come to help prepare for sentencing. Contrary to what Adnan and his family and friends want, Ms. Gutierrez refuses to schedule mitigating witnesses for sentencing. In addition, Adnan has repeatedly asked for the Motion for New Trial to be amended, but Ms. Gutierrez will not consider it or even explain why she won't. These issues, along with many others that came up during Ms. Gutierrez's representation of Adnan, are the reason Ms. Gutierrez has been dismissed..."

Ex. 7 (Rahman letter to Judge Heard).

In the event that Gutierrez was not aware of Asia McClain's story prior to trial, and that the evidence could not have been discovered with due diligence until after trial, the issue could have been raised in a Motion for New Trial. *Yorke v. State*, 315 Md. 578

(1989). Once considered by the trial court judge, the defense would have needed to show prejudice, *i.e.* that there was a substantial or significant possibility that the verdict of the trier of fact would have been affected. *Id.*

Because this evidence would have shown that the State's theory of the murder was incorrect, and that Syed was at a different place when the killing allegedly took place, the evidence was material to the outcome of the case. By not pursuing this, despite the repeated urgings of Syed and his family, Gutierrez provided ineffective assistance of counsel.

4. Failure to Effectively Cross-Examine Deborah Warren

Gutierrez was also ineffective for failure to sufficiently cross examine State's witness Deborah Warren, who was also a student at Woodlawn in the gifted and talented program. On March 26, 1999, Warren gave police a statement in which she made two critical points that could have dramatically bolstered the defense case.

First, Warren told police that she saw Syed the afternoon of January 13, 1999, at about 2:45 p.m., before he went to track practice. She told investigators the following:

Um, and then that day, I think I went to the guidance counselor I had um get a recommendation something like that scholarship information um, so I went and got that um, I'm positive just about then I saw Adnan that day um, before he went to practice. Um, I spoke to him and a couple other kids, and then that was very short though, it wasn't a long period of time we did that, and then probably about 2:45 um, we left...

Ex. 3 at 25 (Warren statement).

Second, Warren told police that she had seen Lee between 2:45 and 3:15, and she was not with Syed at the time. *Id.* at 30. Moreover, Warren related to police that

somebody had asked Lee for a ride, but that she had said no because she had to pick her cousin up from school. *Id.* at 32.

When Warren testified as a State's witness at trial, she claimed she did not remember seeing Syed before track practice on the 13th. 2/17/00, 109. However, Gutierrez never cross-examined her with her inconsistent statement to police. In addition to this, Gutierrez never brought up Warren's claim that she saw Lee so late in the day, and that Lee was not with Syed. Gutierrez never questioned Warren about her statement that Lee was asked to give somebody a ride home – but that she said she could not.

Had Gutierrez confronted Warren with her prior statement, particularly in conjunction with testimony by Asia McClain, the jury would have been impacted. This failure at cross-examination amounts to ineffective assistance of counsel by Gutierrez.

5. Failure to Pursue Plea Offer

Gutierrez was ineffective for failure to convey a plea offer to Syed. At the time of this trial, it was the Baltimore City State Attorney's Office policy to make plea offers to defendants charged with murder. Such an offer was never conveyed to Syed.

A trial attorney performs deficiently when he or she does not disclose to the client that the State has made a plea offer. *Williams v. State*, 326 Md. 367, 378 (1992). The prejudice prong is satisfied if the Petitioner can show a disparity between the offer and the actual sentence. *United States v. Gordon*, 156 F.3d 376 (2d Cir. 1998).

In the instant case, Syed was never informed of a plea offer. That offer was substantially less than the life sentence plus 30 years that Syed received.

6. Failure to Request a Change of Venue

Gutierrez was ineffective for failure to request a change of venue. She should have done so because this case received so much publicity that it was highly probable that some of the jurors were tainted by news reports before and during the trial. Gutierrez was also ineffective for failure to convey to Syed that he had an absolute right to change the venue under Article IV, § 8(b) of the Maryland Constitution.

This right of change of venue was explained by the Court of Appeals in *Redman v. State*, 363 Md. 298, 303 (2001). The Court stated:

Article IV, § 8, of the Maryland Constitution gives a criminal defendant an absolute right of removal to another court if he is charged with an offense which is or may be “punishable by death.” He need do no more than file in writing, under oath, a suggestion that he “cannot have a fair and impartial trial in the court” in which the case is pending. In criminal cases not punishable by death, the constitutional provision requires the defendant to go further and “make it satisfactorily appear to the Court that such suggestion is true, or that there is reasonable ground for the same.”

Id. at 306, quoting *Johnson*, 271 Md. at 191. The Court went on to state that “failure to inform [defendant] of this right was deficient performance of his duties as counsel.” *Id.* at 310.

The prejudice prong is met in Syed’s case by the unusual amount of media coverage that the case received.

7. Failure to Investigate Jay Wilds

Trial counsel was ineffective for failure to sufficiently investigate the State’s key witness, Jay Wilds. If counsel had investigated Wilds, she would have discovered other facts about his background that could have been used to impeach Wilds’ testimony and character on cross-examination.

8. Failure to Raise Appellate Issue Related to Cell Tower Testimony.

When the State sought to introduce Abraham Waranowitz as an expert in cellular towers, the trial Court correctly limited the witness to expert testimony regarding the equipment with which he had actually worked: AT&T cellular towers and Erickson cellular telephones. 2/8/00, 31-32. However, Waranowitz' testimony frequently strayed from these topics. Gutierrez raised a continuing objection on the record, thereby preserving the issue for appeal. *Id.* at 82, 115.

This testimony was prejudicial because it served as the primary corroboration of Jay Wilds' story. In fact, the State went to great lengths in closing arguments to emphasize Waranowitz' testimony. 2/25/00, 61-63.

Although the issue was preserved for appeal, Appellate counsel, Warren Brown, never raised it. This amounts to ineffective assistance of appellate counsel.

9. Cumulative Ineffective Assistance of Counsel.

Through all of the inadequacies mentioned above, as well as others, trial counsel and appellate counsel were cumulatively ineffective in defending Syed. *See Bowers v. State*, 320 Md. 416, 436 (1990).

V. Relief Requested

Syed prays that his convictions be set aside and that he be granted post-conviction relief, as follows:

- 1 Grant a new trial;
- 2 Grant such other and further relief as may be found to be just, fair and equitable; and

- 3 Award the costs of these proceedings.

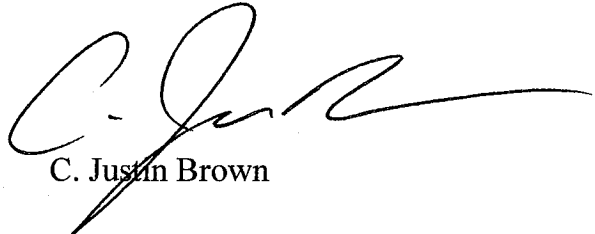
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REQUEST FOR HEARING

Petitioner requests an evidentiary hearing on all matters raised in this Petition.



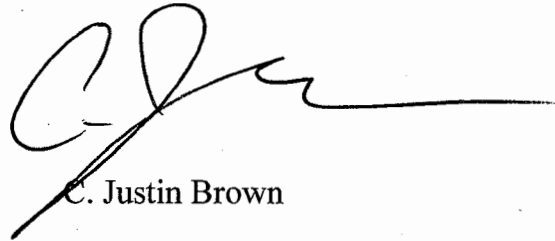
C. Justin Brown

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of June, 2010, this motion was

mailed, postage prepaid, or hand delivered to:

Office of the State's Attorney
208 Clarence Mitchell, Jr., Courthouse
Baltimore, MD 21202



C. Justin Brown

Debbie Warren work w/ Alana & Jeff Hae's school
assembly together
-- --

7/13

E-mail → syed ~~---~~ adnan @ hotmail.com password ↓ poppy

1/14 - 1/15 snow days

Asia McLean → saw him in the library @ 3:00
→ Asia boyfriend saw him too

Library may
have cameras

Track starts @ 3:30

school start @ 7:50 ^{bell rang} 7:45 school start

S. M. Muse 1st Pd. Photography 7:50 - 9:15 take role

S. Jane Efron ^{A day} English AP English / Social Studies 9:20 - 10:45

C. Cliff Tomlin ^{3 days} → Soc. on the 1/13

Lunch

10:50 - 11:15

on premises lunch
left school w/ friends

went to Jay's house

Free Period

11:20 - 12:45

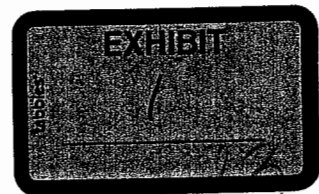
stayed @ Jay's house

Counseling Office 1/13
Reconciliation letter
Donner Paolotti →

AP Psychology

12:50 - 2:15

school end 2:15



Affidavit

A.R.M.

Asia McClain having been
duly sworn, do depose and state:

I am 18 years old. I
attended college at Catonsville
Community College of Baltimore
County. In January of 1999,
I attended high school at
Woodlawn Senior High. I
have known Adnan Syed
since my 9th grade freshman
year (at high school). On 1/13/99,
I was waiting in the
Woodlawn Branch Public Library.
I was waiting for ^amy bike from
my boyfriend (2:20), when I spotted
Mr. Syed and held a ~~15~~ 15-20
minute conversation. We talked
about his girlfriend and he seemed
extremely calm and very caring.
He explained to me that he just
wanted her to be happy. Soon
after my boyfriend (Derrick Banks)
and his best-friend (Merred Johnson)
came to pick me up. Spoke to Adnan (briefly) and we left around 2:40. 25

EXHIBIT

2

Affidavit

Asia McClain, having been duly sworn, do depose and state:

I am 18 years old. I attend college at Catonsville Community College of Baltimore County. In January of 1999, I attended high school at Woodlawn High School. I have known Adnan Syed since my 9th grade freshmen year (at high school). On 01/13/99, I was waiting in the Woodlawn Branch Public Library. I was waiting for a ride from my boyfriend (2:20) when I spotted Mr. Syed and held a 15-20 minute conversation. We talked about his girlfriend and he seemed extremely calm and very caring. He explained to me that he just wanted her to be happy. Soon after my boyfriend (Derrick Banks) and his best friend (Gerrad Johnson) came to pick me up. I spoke to Adnan (briefly) and we left around 2:40. No attorney has ever contacted me about January 13, 1999 and the above information.

Asia McClain

Deborah Warren (CJB)

This is a taped statement of [REDACTED] resides at [REDACTED] Street, Baltimore, MD. [REDACTED] with a date of birth of [REDACTED]. Statement taken at Woodlawn Precinct, Baltimore County Police Dept. Present in here, in the interview is Detective Mac Gillivary who is conducting the interview with Debbie Warren along with Detective Ritz. (Beep) That's Detective Ritz' pager going off. Today's date is March 26, 1999. The time is approximately 1050 hours.

Mac Gillivary: [REDACTED] the record, can you state your full name?

Mac Gillivary: And where do you live, [REDACTED]

Mac Gillivary: And how old are you?

Mac Gillivary: And your date of birth?

Mac Gillivary: And what level of education do you currently have?

I am a senior at [REDACTED]

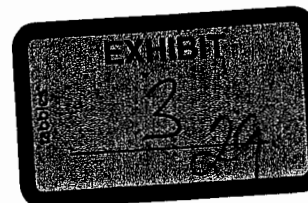
Mac Gillivary: Ok, Ms. [REDACTED] Office is currently investigating a homicide that occurred on the 9th of February where we discovered the remains of Hae Lee in Leaken Park, and were going to ask you some questions about er, both Adnan and Hae and er, share the relationship you had with them also, Ok. Um, naturally you know Hae Lee, correct?

Yes.

Mac Gillivary: And how long have you know her?

For four years.

Mac Gillivary: Did you have any classes with her?



[REDACTED] Usually, but they don't really enforce it, like they're not going to stand over your shoulder and come over and say did you sign in, did you sign in. If you're one of the students and if they question whether or not you're supposed to be in there or not, whether you're at on lunch, then they enforce it, but we weren't part of that group so.

Mac Gillivary: Ok. So you're good kids you're in there giving them work, however sometimes you're a little bit lax in signing in and nobody.

[REDACTED] Not me, I always sign in.

Mac Gillivary: Ok, then [REDACTED] a little bit lax?

[REDACTED] Right.

Mac Gillivary: And you can't recall whether he was there or not there that day?

[REDACTED] Right.

Mac Gillivary: German ends at 12:40, and you have 4th period.

[REDACTED] Uh huh.

Mac Gillivary: That begins at 12:45 and ends at 2:15.

[REDACTED] Right.

Mac Gillivary: And if I recall what class did you have Health, and whose that?

[REDACTED] [REDACTED]
Mac Gillivary: [REDACTED] have Health 4th period with you?

[REDACTED] No.

Mac Gillivary: That semester. What about Hae?

[REDACTED] No.

Mac Gillivary: [REDACTED]

Statement of: [REDACTED]

[REDACTED] Not usually. Sometimes, occasionally one of them would walk by my class, Hi how are you.

Mac Gillivray: Ok, um, after Health the bells rings between 2:45 and 3:00 p.m.

[REDACTED] Uh huh.

Mac Gillivray: And you have what's afternoon announcements?

[REDACTED] Uh huh.

Mac Gillivray: What do you do after afternoon announcements on the 13th?

[REDACTED] Uh, generally I would wait until the halls cleared out, cause (inaudible) walking out there. Um, and then that day, I think I went to the guidance counselor I had um get a recommendation something like that scholarship information um, so I went and got that um, I'm positive just about then I saw Adnan that day um, before he went to practice. Um, I spoke to him and a couple other kids, and then that was very short though, it wasn't a long period of time we did that, and then probably about 2:45 um, we left at um,.

Ritz: If I can get you to stop here just for a second um, Deborah you said you spoke with [REDACTED]

[REDACTED] Uh huh.

Ritz: You think you did, and some other students were the other students part of the group that when you were talking with [REDACTED]

[REDACTED] Um, not exactly no.

Ritz: Was he with anyone else?

[REDACTED] Urr.

Ritz: Do you recall your conversation that you had with him?

[REDACTED] Very brief about school, and him going to practice. That's all I remember.

Page Twenty Six

Statement of: [REDACTED]

Ritz: And where exactly were the both of you?

[REDACTED] Um, inside the guidance area. Um, we walked in the (inaudible) steps, it's a short area beside the offices and then the main secretary desk, we were in that area.

Ritz: Do you have any idea where he was coming from or what his purpose for being in that area was?

[REDACTED] No um, he did have his um, track stuff with him, his gym bag and that I think um, but I don't know where he came from.

Ritz: You said he had his gym bag with him, can you describe that for me?

[REDACTED] Um, I think it's a [REDACTED] I think he interchange bags, um, and it's black, large, handles, that's all I remember.

Ritz: Ok.

Mac Gillivary: In the guidance counselor's office, um, is there a policy that you need to sign in there, prior to going in to see a counselor?

[REDACTED] No, um, if you go during the day then you have to set up an appointment, but after school it's a free for all.

Mac Gillivary: Ok, and you saw Adnan in the guidance counselor's office that day. What would he have been doing in there?

[REDACTED] Uh huh. Um either one of the counselors for information. Um.

Mac Gillivary: Is there any other reason why somebody would be in the counselor's office?

[REDACTED] Not really, just.

Mac Gillivary: So when you went into the counselor's office that day did you have an appointment with the counselor?

[REDACTED] No.

Mac Gillivary: Did you talk to a counselor?

Page Twenty Seven

Statement of: [REDACTED]

[REDACTED] Uh huh.

Mac Gillivary: And that counselor would actually remember you being there because you're there for a specific reason, correct?

[REDACTED] Yes.

Mac Gillivary: So if [REDACTED] was in there, he would either have an appointment or he would be actually seeing a counselor concerning a specific.

[REDACTED] Yea, Yes.

Mac Gillivary: College, it would be the same counselor, would it not?

[REDACTED] Um,

Mac Gillivary: Seniors have their counselor?

[REDACTED] No. It goes by alphabet. Um, but we did have the same counselor to manage the entire, a certain counselor.

Mac Gillivary: Who is that?

[REDACTED] [REDACTED] but she's (inaudible) sometimes you wouldn't be able to go to her, some of the other counselors were designated for some areas like transcripts, um, [REDACTED] was in charge of that, you know who you are (inaudible) and um, the secretary if you want to set up an appointment. Sometimes people would just need notes, they wouldn't necessarily talk to a counselor um, but leave a note in her mail box or fill out a slip for an appointment for the next day.

Mac Gillivary: Ok. You're positive you saw?

[REDACTED] If (inaudible) the 13th I'm talking about, yes.

Mac Gillivary: Ok, and why do you remember that?

[REDACTED] Um, I don't know, um.

Mac Gillivary: Could you be mistaken?

[REDACTED] Possibly.

Mac Gillivary: Ok.

Ritz: The tape is going to run out in a minute or so, you want to check it?

Mac Gillivary: Ok. Um, were going to actually stop the tape and turn it over, Ok.

[REDACTED] Ok.

Mac Gillivary: And continue the er, interview. It's still the 26th, it's approximately er, 11:25.

Mac Gillivary: Testing, one, two, three. This is Detective Mac Gillivary and it's still the 26th of March 1999, it's approximately 24 minutes of 12. Detective Ritz, Detective Mac Gillivary, and were still interviewing [REDACTED] [REDACTED] Um, we were talking about the guidance counselor's office and what actually everyone does there, and you indicated you were in the guidance counselor's office that day and you recall seeing [REDACTED] but you can't be 100% sure.

[REDACTED] (Inaudible) I remember the event taking place, but I'm not exactly sure, that could have been the day before or the day after, because that happened more than one time.

Mac Gillivary: Do you have any idea what class [REDACTED] had 4th period.

[REDACTED] I don't know if I remember.

Mac Gillivary: Ok. Do you recall what class Hae had 4th period, same time period?

[REDACTED] Same time, um, (inaudible) Psychology.

Mac Gillivary: Ok and Psychology is (inaudible)?

[REDACTED] Uh huh.

Mac Gillivary: Um, after school if you had sports, you need to go study hall period, and where is study hall?

[REDACTED] Various points of the cafeteria, some classes, um, some Ts didn't go at all.

Mac Gillivray: Where was study hall for Track?

[REDACTED] Um, generally um, in the cafeteria.

Mac Gillivray: Um, do you know whether you have to sign in or you don't?

[REDACTED] No.

Mac Gillivray: What about if your GPA is high enough, do you actually have to go to the study hall?

[REDACTED] Um, No (inaudible) you don't, if your track number is run somewhere else before they un, went to class and they didn't really go [REDACTED] h [REDACTED]

Mac Gillivray: However, the question was if you have a high enough GPA [REDACTED] wouldn't have to go to study hall at all?

[REDACTED] No.

Mac Gillivray: What would [REDACTED] do if he had track, didn't have to go to er, study hall, what would he do for that hour?

[REDACTED] Hang out and see various people, talk to teachers, sometimes he would leave um, and then come back.

Mac Gillivray: He would have to get changed into his track attire, would he generally do that there at school, naturally it would be in the men's locker room, However, would he change at school?

[REDACTED] Right, right, uh huh, at school.

Mac Gillivray: He wouldn't leave.

[REDACTED] No.

Mac Gillivray: Change at home, come back?

Page Thirty
Statement of: [REDACTED]

[REDACTED] No he didn't do that.

Mac Gillivary: That you're aware of.

[REDACTED] Uh huh.

Mac Gillivary: Ok. Did you see Hae after school?

[REDACTED] That day we talked in um, the lobby area of the school um, with someone else and um, she was on her way to go somewhere else. To pick up her cousin cause there was a game that day um, he were rustling the basketball, but she was going to the junior um, I think it was at another school not at Woodlawn.

Mac Gillivary: What time was it when you saw her?

[REDACTED] Um, this was between 2:45 and 3:15.

Mac Gillivary: Ok. And indicated she had to leave to pick up her cousins. What time did she have to pick up her cousins?

[REDACTED] Between 3:00, 3:30.

Mac Gillivary: Do you have any idea what specific time?

[REDACTED] No, um, she generally leave at the same time everyday, but, um, sometimes she run real late because she'd be there early and.

Mac Gillivary: Hae would park her car in the lower lot and when school let out what would she do?

[REDACTED] Go through the parking lot and bring her car to the front parking lot.

Mac Gillivary: And would that be in the circle?

[REDACTED] Sometimes in the circle in the parking lot up there or in her, the actual parking lot, cause there were 10 spaces inside the lot. Sometimes if there's one she'd park there if she park in the loop, but only for a short period of time in the parking lot.

Mac Gillivary: And what would she do?

0
I just came from your house an hour ago. March 1, 1999

it's late.

Dear Adnon, (hope I sp. it right)

I know that you can't visiters, so I decided to write you a letter. I'm not sure if you remember talking to me in the library on Jan. 13th, but I remembered chatting with you. ~~For~~ Throughout your actions that day I have reason to believe in your innocence. I went to your family's house and discussed your "calm" manner towards them. I also called the Woodlawn Public Library and found that they have a surveillance system inside the building. Depending on the amount of time you spend in the library that afternoon, it might help in your defense. I really would appreciate it if you would contact me between 1:00pm - 1pm or 8:45pm - until... My number is (410) 486-7655. More importantly I'm trying to reach your lawyer to schedule a possible meeting with the three of us. We aren't really close friends, but I want you to look into my eyes and tell me of your innocence. If I ever find otherwise I will hunt you down and wip your ass, ok friend. //



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I hope that you're not guilty and
~~I want~~ I hope to death that you have
nothing to do with it. If so I will
try my best to help you account
for some of your unwitnessed, unaccountable
lost time (2:15 - 8:00; Jan 13th)

The police have not been notified Yet
to my knowledge maybe it will give
your side of the story a particle
head start. I hope that you
appreciate this, seeing as though
I really would like to stay out
of this whole thing. Thank

Justin, he gave me a little
more faith in you, through his
friendship and faith. I'll pray
for you and that the "REAL TRUTH"
comes out in the end.

"I hope it will set you free."

Only trying to help

Asia McClain

* P.S. If necessary my grandparents
line number is 653-2957. Do not call
that line after 11:00 O.K.

Like I told Justin if you're innocent
I do my best to help you.

But if you're not only God can help you.

If you were in the library for
awhile, tell the police and I'll
continue to tell what I know
even kinder than I am. My boyfriend and
his best friend remember seeing you there too.

Your Amiga

Asia McClain

Adnon Syed #992005477

301 East Eager Street
Baltimore, MD. 21202

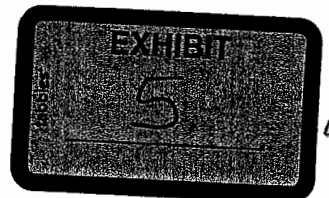
Dear Adnon,

How is everything? I know that we haven't been best friends in the past, however I believe in your innocence. I know that central booking is probably not the best place to make friends, so I'll attempt to be the best friend possible. I hope that nobody has attempted to harm you (not that they will). Just remember that if someone says something to you, that their just f**king with your emotions. I know that my first letter was probably a little harsh, but I just wanted you to know where I stode in this entire issue (on the centerline). I don't know you very well, however I didn't know Hae very well. The information that I know about you being in the library could helpful, unimportant or unhelpful to your case. I've been think a few things lately, that I wanted to ask you:

1. Why haven't you told anyone about talking to me in the library? Did you think it was unimportant, you didn't think that I would remember? Or did you just totally forget yourself?
2. How long did you stay in the library that day? Your family will probably try to obtain the library's surveillance tape.
3. Where exactly did you do and go that day? What is the so-called evidence that my statement is up against? And who are these WITNESSES?

Anyway, everything in school is somewhat the same. The ignorant (and some underclassmen) think that you're guilty, while others (mostly those that know you) think you're innocent. I talked to Emron today, he looked like crap. He's upset, most of your "CRUCHES" are. We love you, I guess that inside I know that you're innocent too. It's just that the so-called evidence looks very negative. However I'm positive that

March 2, 1999



everything will work out in favor of the truth. The main thing that I'm worried about is that the real killers are probably somewhere laughing at the police and the news, that makes me sick!! I hope this letter and the ones that follow ease your days a little. I guess if I didn't believe in your innocence, that I wouldn't write to you . ☺

The other day (Monday) We (some of Mr. Parker's class) were talking about it and Mrs. Shab over-heard us; she said, "Don't you think the police have considered everything, they wouldn't just lock him up unless they had "REAL" evidence." We just looked at her, then continued our conversations. Mr. Parker seems un-opinionated, yet he seemed happy when I told him that I spoke to your family about the matter (I told him) Your brothers are nice, I don't think I met your mother, I think I met you dad; does he have a big gray beard. They gave me and Justin soda and cake. There was a whole bunch of people at your house, I didn't know who they were. I also didn't know that Muslims take their shoes off in the house...thank God they didn't make me take mine off, my stinky feet probably would have knocked everyone out cold.



I over-heard Will and Anthony talking about you, they don't think you did "IT" either. I guess most people don't. Justin's mom is worried about you too. She gave me your home number, when Justin was in school. Classes are boring, that's one benefit to being "there", no school!!

They issued a school newsletter on the issue, so everyone is probably aware. It didn't say your name, but between that, gossip and the news, your name is known. I'm sorry this had to happen to you. Look at the bright side when you come back, won't nobody f**k with you and at least you'll know who your real friends and new friends should be. Also, you're the most popular guy in school. Shoot...you might get prom king.



You'll be happy to know that the gossip is dead for your associates, it's starting to get old. Your real friends are concentrated on you and your defense. I want you to know that I'm missing the instructions of Mrs. Ogle's CIP class, writing this letter.

It's weird, since I realized that I saw you in the public library that day, you've been on my mind. The conversation that we had, has been on my mind. Everything was cool that day, maybe if I would have stayed with you or something this entire situation could have been avoided. Did you cut school that day? Someone told me that you cut school to play video games at someone's house. Is that what you told the police? This entire case puzzles me, you see I have an analytical mind. I want to be a criminal psychologist for the FBI one day. I don't understand how it took the police three weeks to find Hae's car, if it was found in the same park. I don't understand how you would even know about Leakin Park or how the police expect you to follow Hae in your car, kill her and take her car to Leakin Park, dig a grave and find you way back home. As well how come you don't have any markings on your body from Hae's struggle. I know that if I was her, I would have struggled. I guess that's where the SO-CALLED witnesses. White girl Stacie just mentioned that she thinks you did it. Something about your fibers on Hae's body...something like that (evidence). I don't mean to make you upset talking about it...if I am. I just thought that maybe you should know. Anyway I have to go to third period. I'll write you again. Maybe tomorrow.

Hope this letter brightens your day... Your Friend,

Asia R. McClain

P.S: Your brother said that he going to tell you to maybe call me, it's not necessary, save the phone call for your family. You could attempt to write back though. So I can tell everyone how you're doing (and so I'll know too).

Asia R. McClain
6603 Marott Drive
Baltimore, MD 21207

Apparently a whole bunch of girl were crying for you at the jail...Big Playa Playa (ha ha ha he he he).

March 2, 1999

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Mr. and Mrs. Syed Rahman
7034 Johnnycake Road
Baltimore, Maryland 21207

Christina Gutierrez
Redmond & Gutierrez, P.A.
1301 Fidelity Building
210 North Charles Street
Baltimore, Maryland 21201

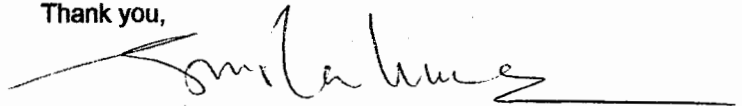
March 30, 2000

Dear Ms. Gutierrez,

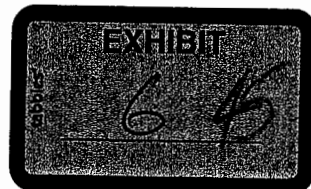
We would like for you to include in the motion for new trial the newly discovered evidence provided by Ms. Asia McClain. We are aware that under Maryland laws, the evidence is considered newly discovered only when it is indeed newly discovered. We feel, however, that Asia's information falls into a gray area because in fact no body contacted her for her story, and that until now her story was undiscovered. Attached please find a copy of an affidavit signed and sworn to by Ms. Asia McClain. According to her, the other two eyewitness alibis are also willing to submit affidavits.

Furthermore, for sentencing we would like to have mitigating witnesses address the court. Please contact us to arrange for this.

Thank you,

A handwritten signature in dark ink, appearing to read "Syed Rahman", with a long horizontal line extending to the right.

Mr. and Mrs. Syed Rahman



RE: State of MD v. Adnan Syed, Case No. 199103042-46

VIA : HAND DELIVERY

Honorable Wanda Keyes Heard, Judge
Circuit Court for Baltimore City

Dear Judge Heard,

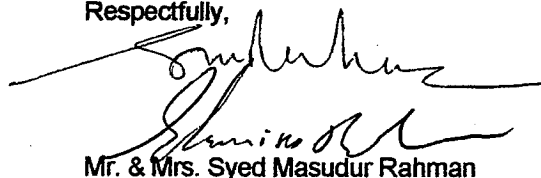
We are writing on behalf of our son, Adnan Syed, who is incarcerated at the Baltimore City Detention Center. He is unable to send the court a letter quickly due to his circumstances; however, he has mailed the court a letter which will take a day or two to receive. Adnan is scheduled to appear before the court on Wednesday, April 5th for a hearing on Motion for New Trial and to be sentenced. We are respectfully requesting that the hearing and sentencing be postponed due to the fact that Adnan's attorney, Ms. Christina Gutierrez, has been discharged from the case.

For the past two weeks Adnan has been trying to get in touch with Ms. Gutierrez. She has not spoken to him on the phone, nor come to see him. He waited patiently day after day hoping she would come to help prepare for sentencing. Contrary to what Adnan and his family and friends want, Ms. Gutierrez refuses to schedule mitigating witnesses for sentencing. In addition, Adnan has repeatedly asked for the Motion for New Trial to be amended, but Ms. Gutierrez will not consider it or even explain why she won't. These issues, along with many others that came up during Ms. Gutierrez's representation of Adnan, are the reason Ms. Gutierrez has been dismissed.

Because Adnan has been incarcerated for a year, he has been completely dependent on Ms. Gutierrez. Adnan has been trying to get in touch with her, calling every day for her, in order to tell her that she is being discharged so that he can apply for a public defender. At the same time, the public defender's office has informed us that Adnan cannot apply for a public defender until Ms. Gutierrez puts it in writing that she relinquishes all ties with Adnan. Adnan's hands have been tied because Ms. Gutierrez will not contact him, nor can he apply for a public defender until Ms. Gutierrez gives him written documentation that she is no longer representing him. At this point, it is critical a postponement be granted to ensure Adnan receive competent representation.

The attorney-client relationship has been irreparably destroyed due to Ms. Gutierrez's actions. Adnan is not prepared at all for sentencing and he strenuously objects to her continued representation. He is hoping a public defender will help him prepare and also help schedule mitigating witnesses. We implore you to take into consideration these circumstances and grant us a postponement.

Respectfully,



Mr. & Mrs. Syed Masudur Rahman

cc: Christina Gutierrez
Assistant State's Attorney Kevin Urick
Office of the Public Defender for Baltimore City

EXHIBIT

7-47