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October 8, 2013

SENT VIA ELECTRONIC MAIL ONLY

The Honorable Anita Alvarez
State's Attorney
Cook County State's Attorney's Office
2650 S. California Avenue
Chicago, Illinois 60608

RE: *People v. Simon*
Case No. 99 CR 07699
Our File No. 06-2020

Dear State's Attorney Alvarez:

This letter requests the release of Alstory Simon from his wrongful incarceration since 1999 on a 1982 double murder for which he is actually and provably innocent. The evidence further establishes that the person who committed the murders, Anthony Porter, was hastily released from prison in 1999 amidst a frantic rush to judgment before any investigation was conducted, following the release to the media of a false confession that was coerced from Alstory by private investigator, Paul Ciolino, who was working for then Northwestern University professor David Protes.

It is doubtful any objective observer would still contest that Alstory's confession was illegally coerced by fabricated evidence, threats of the death penalty, and promises of riches. Indeed, Ciolino has brazenly stated publicly that he "bull-rushed" Alstory, and "mentally he couldn't recover." Among the varied methods of coercion admittedly employed by Northwestern was Ciolino's employment of an actor to falsely attest that he witnessed Alstory commit the crime. The only other evidence against Alstory - statements from his ex-wife and her nephew - were recanted years ago when both witnesses explained their statements were false and coerced by Ciolino through the same illegal tactics he and Protes have indisputably utilized in several other cases. There was and is no physical evidence against Alstory.

Yet stubborn Porter proponents still cling to Alstory's guilty plea as evidence of his guilt. While such a plea might otherwise be persuasive, Alstory's plea is directly attributable to provable misconduct of his attorney, Jack Rimland, who was hired by and working on behalf of Ciolino and Protes. In that role, Rimland lied to Alstory about the strength of the State's case, and withheld explosive grand jury evidence of Porter's guilt from both Alstory and the court. Further, when Alstory wavered on pleading guilty, Rimland worked with Northwestern to falsely implicate him in another crime in order to coerce his plea, while simultaneously bestowing formal awards upon Ciolino and Protes for their work in freeing Porter

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The suppression of evidence exculpating Alstory and inculcating Porter is only partially attributable to Rimland's betrayal of his client. Unfortunately, a prior administration of the Cook County State's Attorney's office (CCSA) acquiesced in a coordinated effort between Northwestern representatives and a local media outlet to pressure the CCSA into a hasty and regrettable rush to judgment.

Indeed, just a few weeks ago, the former chief of the CCSA's criminal division has sworn that he personally advised former State's Attorney Richard Devine that he had reservations both about Alstory's guilt and Porter's innocence in light of the evidence which he has laid out in his affidavit, and that he disagreed with the decision to hastily release Porter after the videotaped confession was publicly aired. And, just last week, a well-known Chicago columnist who has long been an ardent supporter of Protes and Ciolino, reluctantly acknowledged that the circumstances surrounding Rimland's retention and representation of Simon demand an evidentiary hearing. Further, a soon-to-be-completed cable TV documentary is expected to express an objective and harsh view of the circumstances which led to Porter's release, Alstory's conviction, and his continuing wrongful incarceration.

By this submission, we ask the CCSA's current administration to remedy the injustice done to Alstory for the past 15 years by releasing him from his wrongful incarceration based upon the evidence of his actual innocence. We summarize the evidence in the timeline set forth below, but you can access all necessary information by reviewing Alstory's 2005 Post Conviction petition, two ensuing supplemental petitions, and the accompanying exhibits. Beyond that, we ask you to strongly consider the substantial evidence developed by your office in *People v. McKinney* and *People v. Serrano* in the last two years which have demonstrated Protes's pattern and practice of using illegal coercive tactics to extract favorable testimony in post-conviction proceedings. The undersigned have all relevant file materials, including reports, testimony, and affidavits, readily available to provide to you immediately upon request.

1982-83 The Murders and Porter's Arrest and Conviction

On August 15, 1982 at about 1:00 a.m., Jerry Hillard and Marilyn Green were shot and killed in the bleachers of the Washington Park swimming pool. Hillard was shot twice in the head and Green was shot twice in the neck and once in the hand. CPD located witnesses Henry Williams and William Taylor at the scene. Williams stated he was swimming, and upon exiting the pool, Porter pointed a gun to his head and demanded money. He then saw Porter enter the bleachers near the two victims and heard gunshots. Taylor first stated he was in the pool and heard shots but did not identify a shooter. Later that night, Taylor told police he saw Porter shoot the victims, but did not previously identify him because he was afraid of Porter and his brothers.¹ CPD contacted Felony Review, and ASA David Kerstein responded to Area 1 to participate in further interviews of Williams and Taylor.

¹ Porter was well known to Taylor as a vicious neighborhood thug who was widely feared.

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ASA Kerstein accompanied Williams, Taylor and CPD detectives to the scene where Williams and Taylor confirmed their statements. While at the scene, Kerstein and the detectives located witnesses Kenneth Edwards and Michael Woodfork. Edwards stated he was in the pool area at the time of the shooting with Woodfork, Mark Senior and Eugene Beckwith. Edwards identified Porter, who he knew, as the shooter. Kerstein approved an arrest warrant for Porter, who was on parole for a robbery which occurred in the same bleachers as the murders. On August 17, Porter surrendered, and claimed he was with friends the time of the murders.²

At the time of his arrest Porter was also wanted for shooting Earl Lewis in the head on August 1, 1982, while Lewis sat outside a building at 56th and Michigan, a few blocks from the murders. Porter later pled guilty to that crime and was sentenced to 6 years.³

On September 7, 1983, Porter was found guilty by a jury of the murders, unlawful use of weapons, unlawful restraint and the armed robbery of Williams. He was sentenced to death for the murders, thirty (30) years for the Robbery, and a lesser term for other offenses. The key witnesses against Porter were Taylor, Williams, and CPD officer Anthony Liace, who testified he stopped and frisked Porter leaving the park after the shooting, and released him when he did not find a weapon.

1987 Porter's Post-Conviction Petition

On April 24, 1987, attorney Ken Flaxman filed a post-conviction petition for Porter naming Alstory as a suspect in the murders. This accusation was based on the statements of Porter's friends and associates who contended they saw Alstory and his wife Inez with the victims at Washington Park on the day they were murdered, and that they left Chicago for Milwaukee after the murders. On May 8, 1987, Inez Jackson, Alstory's wife, denied knowledge of the murders to Flaxman's investigator, and acknowledged she and Alstory were at the park earlier in the evening with the victims.⁴ The petition was denied.

² Porter has always denied being in the park at any time on the day of the murders.

³ Lewis testified at Porter's sentencing on the Hillard/Green murders that Porter kicked his dog, and when Lewis protested, Porter retrieved a gun and shot him in the head.

⁴ Alstory also has always acknowledged he and Inez were with the victims earlier on the day of the murders, and they left Chicago several weeks later because Porter's gang associates were threatening and harassing them to the point of firing bullets through their windows.

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1998-99 Proress takes case; Porter is Released; Alstory is Charged and Convicted

In the fall of 1998, Proress, Ciolino and Northwestern journalism students took up Porter's case. Before developing any evidence, Proress wrote Ciolino in November 1998 that he was "almost certain" Alstory was the killer. Several weeks later, in mid-December, Ciolino and Proress took written statements from Taylor recanting his trial testimony that he saw Porter fire the gun.⁵ On January 20, 1999, Inez Jackson's nephew, Walter Jackson, signed an affidavit claiming Alstory told him 17 years earlier that he did the murders. On January 29, Inez provided statements to Proress, Ciolino and journalism students stating she was with Alstory when he did the murders. On February 3, Ciolino obtained Alstory's confession. Porter was released two days later, and Alstory was charged the following day.

After Alstory was charged, the CCSA convened a grand jury in February, 1999, during which ASA Tom Gainer elicited facts from several witnesses that inculpated Porter. Taylor provided a court reported sworn statement stating that after the shootings, Porter ran past him. Eugene Beckwith and Mark Senior testified they were at the pool area and saw Porter, whom they knew from the neighborhood, in the bleachers immediately before the shootings. Kenneth Edwards testified that he saw Porter shoot the victims in the bleachers. Former CCSA criminal division chief Epach has stated in his affidavit that the grand jury testimony of Senior, Beckwith, and Edwards "confirmed the involvement of Porter" in the murders.

On September 7, 1999, Alstory pled guilty to one count of Murder and one count of Voluntary Manslaughter, and was sentenced to 37 years in prison. ASA Gainer told the Court that Senior and Beckwith, who gave inculpatory testimony against Porter, but said not a word about Alstory would testify against Alstory. No one said a word about Edwards's testimony that he saw Porter shoot the victims. As a result, Alstory was misled to believe that if he went to trial, several witnesses, including the phony actor employed by Ciolino, would implicate him.

Rimland never actually represented Alstory. He represented Ciolino and Proress. On the same day he obtained the confession, Ciolino procured Rimland to defend Simon for free, thus ensuring the confession and witness statements obtained by Northwestern would never be scrutinized. Rimland and Ciolino were good friends, shared office space, and Rimland had defended Ciolino when he was charged with threatening to shoot a witness during an investigation. On February 4, the day after Alstory's confession and before he was even charged, Rimland stated publicly that "obviously if he is charged, he's looking at the death penalty." Three months after signing on as Alstory's lawyer, and several months before he pled guilty, Rimland, representing "Illinois Attorneys for Criminal Justice", presented awards to Proress, Ciolino and the students, for their acts in freeing Porter. In doing so, Rimland stated "[o]ur organization honors them for the extraordinary effort they demonstrated in establishing Porter's innocence before his execution date."

⁵ Ciolino and Proress omitted Taylor's statement that Porter ran by him just after the shootings.

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2001 Simon Files Pro Se Post-Conviction Petition

In 2001, years before public disclosures of Protes's and Ciolino's pattern of coercing testimony, Alstory's pro-se PC petition alleged Ciolino coerced his false confession by convincing him Chicago police were on their way to arrest him, that they had sufficient evidence to put him on death row, and that by confessing to the murders in self-defense, he would serve a short prison stint and be rewarded with riches from book and movie deals upon release.⁶ Even the undisputed aspects of the interrogation are shocking, and negate the integrity of the confession. Specifically, Ciolino has admitted that, to obtain the confession, he showed Alstory a phony video tape of an actor claiming to have witnessed Alstory commit the murders. When that didn't work, Ciolino showed Alstory a CBS-TV broadcast of Protes with Alstory's ex-wife, Inez, stating she saw Alstory commit the murders. Ciolino then admits he told Alstory that if he confessed Ciolino would help him avoid death row, and provide him with a free lawyer, Rimland. When later asked by a Chicago magazine reporter to describe Alstory's confession, Ciolino responded: "[w]e just bull-rushed him, and mentally he couldn't recover." Indeed, when asked by CBS reporter John Drummond about the confession in 2006, Ciolino stated, "I don't have any rules. The Supreme Court says I can lie, cheat, do anything I can to get him to say whatever I gotta get him to say. The Chicago Police Department is (*sic*) masters at it; so is every other police department."

2003-06 Simon's 2nd Post Conviction Petition - the Only 2 Witnesses against him Recant, and another Witness against Porter Emerges

In 2005, Alstory filed a second post-conviction petition, this time through counsel. Judge Clay's dismissal of that petition in 2006 was affirmed in 2008. The petition was supported with substantial new evidence including that which is summarized below.

Walter Jackson acknowledged to investigators that his 1999 statement implicating Alstory was false and that he signed it because Protes promised to get him out of jail and provide him with money if he and his Aunt Inez helped Porter. Walter explained that after Porter saved him from a prison attack when they were incarcerated together, Walter agreed to help Porter by claiming that Alstory, who was married to his aunt, Inez, told Walter he killed Hillard and Green. Protes then sent journalism students to see Walter with the statement he signed. Walter also called Inez and her daughter, Tiffany Jackson, and told them that if Inez helped Porter, Protes would help get Walter and Inez's son Sonny (who was also in prison for murder) out of jail.

⁶ The petition was dismissed by Judge Evelyn Clay in October 2001.

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Walter's explanation is supported by media accounts which reveal that, on December 16, 1998, when Protes and his students first visited Porter at the Cook County Jail, Porter told them to locate and interview Walter and Inez because he knew they would help him.

In November, 2005, **Inez Jackson** recanted her implication of Alstory, explaining she had lied to get back at Alstory because of their long-standing feud,⁷ to help Walter and Sonny get out of jail⁸, and because Protes repeatedly promised a big check. Inez repeated her recantation during a video-taped deposition shortly before her death in early 2006.

Inez also stated Protes provided her with a free attorney, Martin Abrams, who told her she could go to jail if she did not hold true to her initial statements. She added Protes had her taken to a downtown hotel, where she was provided free food and alcohol, and that Abrams told Protes Inez could not accept less than \$10,000 for her book rights. Protes told Inez he'd get in touch with her when he got ready to write the book. Abrams added that Porter would give her at least \$500,000 out of the millions he would collect from his civil suit.

Tiffany Jackson provided a video-taped statement in October 8, 2003, confirming that Walter called her from prison and stated that Porter had kept him from being "shanked" in prison, and that he was going to look out for Porter. Tiffany stated that her mother had serious alcohol and drug problems, and confirmed that Protes drove her and Inez to a Chicago hotel where large amounts of alcohol were provided to Inez. Tiffany also confirmed that Inez told her she was helping Porter because Protes would help free Walter, and because Protes had promised her money from book rights.

Rita Carlisle provided a video-taped statement in October, 2003, confirming that Walter called her from prison and told her Porter had saved his life and he had talked to Protes because now he wanted to save Porter's life. She stated her sister Inez told her that Protes promised Inez money from book and movie deals, and that Abrams told Inez in Rita's presence that she could go to jail if she did not stay true to her statement to Protes.

Reverend Robert Braun executed an affidavit in November, 2005, stating that Alstory told him after his arrest that he was innocent but intended to plead guilty because Ciolino offered him a lot of money from movie and book deals, and promised Protes would get him out of jail after two years. Braun added that Alstory told him Rimland wanted him to honor the deal and said it did not matter if he was innocent. Braun stated he called Rimland and told him it was wrong for Alstory to plead guilty to a crime he did not commit. Rimland replied Alstory's innocence did not matter because he would get convicted at trial and get the death penalty.

⁷ Alstory had thrown Inez out of the house years earlier due to domestic problems which included Inez's use of the house to have sex with men while he Alstory was at work.

⁸ Inez stated she also received a letter from Sonny, stating it would help him if she helped Porter.

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Ray Brown executed an affidavit in February, 2006, stating he was swimming with friends, including Eugene Love, at the time of the murders. He heard gun shots from the bleachers, “looked up to see Porter firing a gun”, saw Jerry Hillard lying in the bleachers, and then saw Porter run past him with a gun.

Eugene Love executed an affidavit in February, 2006, corroborating he was swimming with Ray Brown the night of the murders, and saw “Jerry” in the bleachers, and an unidentified person firing a gun. After the shooting, Ray Brown told him that Tony Porter shot Jerry.

2011-12 Northwestern’s Pattern of Coercing Witnesses Fully Emerges

In 2001, Alstory could not know his allegations of coercion would later be corroborated through discovery of a systemic, well-documented pattern proving Northwestern’s use of identical coercive tactics in several other cases:

(1) Ford Heights Four

- (a) Proress’s book about the Ford Heights Four case, “A Promise of Justice,” described his efforts to convince key prosecution witness, Charles McRaney, to recant. Proress wrote that Ciolino dressed in a sharkskin suit and posed as Hollywood movie producer Jerry Bruckheimer for a meeting at a south side KFC, at which Ciolino gave McRaney \$80.00, showed him a movie contract, and promised McRaney money from a movie deal in exchange for his testimony.
- (b) Proress wrote McRaney a letter on Northwestern University letterhead, stating McRaney had “monetary rights” to his story, and that Proress was moving ahead with his “investigation and book, and the movie is sure to follow.”
- (c) In a separate handwritten note, Proress advised McRaney to contact him because Proress “has information for you that should be helpful financially.”
- (d) McRaney has since told investigators that Proress told him he could “use” one of two female Northwestern students for a day or two if he recanted his earlier testimony.

(2) People v. Madison Hobley

The key prosecution witness, Andre Council, has testified Ciolino came to his home with Hobley’s lawyer and told him if he recanted, Ciolino would ensure his daughter received a free college education, and that he would never need to work again.

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(3) **People v. McKinney**

- (a) At a minimum, CCSA prosecutors allege two witnesses were paid during student interviews. One witness recanted the statement he provided students. One witness told prosecutors the students were nice to him so he would “give them an interview ... so they could get a good grade,” and that the female students had “come on” to him, acting as if they were going to “give up some p***y if I would talk to them.” [Note: Protess took two female students to Alstory’s Milwaukee home two months before Ciolino’s trip and sent the girls to the door alone to meet with Alstory.]
- (b) Protess doctored an email in an attempt to obstruct Northwestern University’s efforts to determine whether he had waived a claimed reporter’s privilege by disclosing documents to McKinney’s lawyers.

(4) **People v. Serrano**

- (a) CCSA prosecutors allege a Northwestern memorandum demonstrates that “discussion of promises made to [a witness] is blatant and rampant” and “student manipulation of that witness is abundant and apparent.”
- (b) Prosecutors have unearthed emails in *Serrano* which claim Protess brought a female student to a meeting with a jailed witness as a “treat.”
- (c) An email in *Serrano* shows Protess acknowledged an inherent conflict in asking his lawyer friends to represent a witness as a favor to him.

(5) **People v. Simon (other witnesses)**

- (a) Inez Jackson testified she falsely implicated Alstory because Protess told her he would help her son and nephew get out of jail, and promised her a big check.
- (b) Walter Jackson has stated that Protess told him if he helped Porter, Protess would help get Walter out of jail, and money would be waiting for him when he got out.
- (c) All told, 6 witnesses in Alstory’s case corroborate that Protess and Ciolino offered book and movie deals in their presence: Alstory, Inez Jackson, Walter Jackson, Tiffany Jackson, Rita Carlisle, and Reverend Braun.

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Conclusion

The statement accompanying the creation of the Public Integrity Unit last June declared:

the Unit will review post-conviction cases and focus specially on cases that have evidence similar to others that have led to wrongful or questionable convictions”, and that “[w]ith the creation of this unit I am demonstrating my commitment to bringing our very best efforts to ensure that only guilty people are convicted here in Cook County. And if we have any reason to believe that we have prosecuted or are prosecuting someone who is actually innocent, we will continue to take immediate steps to investigate the matter fully to see that justice is served.

It is simply impossible to objectively view the evidence in this case and be left with a firm belief that Alstory Simon shot Jerry Hillard and Marilyn Green in August, 1982. Alstory credibly contended in 2001 that his confession was coerced through threats and promises, long before those tactics were later corroborated as Northwestern’s modus operandi in several cases. In addition, both Walter and Inez Jackson have explained the same promises were employed to convince them to falsely implicate Alstory, against whom they both bore longstanding grudges. Those explanations are further supported by Inez’s sister and daughter.

On the other hand, no less than 7 people have identified Porter as either the shooter (Edwards and Brown), or being in the bleachers at the time of the shooting (Senior, Beckwith, Williams, and Taylor) or in the park (Officer Liace). Porter, by contrast, has consistently denied being at Washington Park on the day or night of the incident. None of those 7 individuals has said a word about Alstory Simon being present.

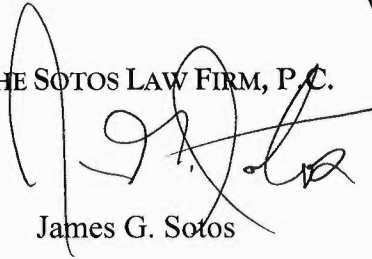
Against that backdrop, it is high time that individuals in positions of authority take the time to critically assess the evidence in this case. Our client has been robbed of his freedom for 15 years as a result of Northwestern’s unbridled fabrication of false evidence against him, the professional misconduct of a free lawyer who was supplied to Alstory by his own accusers, the failure of the CCSA’s prior administration to stand up to Northwestern and the media by investigating the fabricated evidence against Alstory, and the refusal of the courts to take seriously the compelling evidence of Alstory’s innocence and Porter’s guilt. After all these years, justice requires that the shameful charade be exposed and concluded.

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We thank you for your consideration of this important request, and will adjust our schedules to meet with you and/or your designee(s) at your earliest convenience. We are also available by phone or by email to address any questions you may have, and/or to promptly provide you with any supporting file materials.

Very truly yours,

THE SOTOS LAW FIRM, P.C.



James G. Sotos

and

EKL, WILLIAMS & PROVENZALE, LLC



Terry A. Ekl

JGS/vts

cc: Mr. Fabio Valentini, Chief of Criminal Prosecutions Bureau