

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

File No. _____

JOSEPH SLEDGE, JR.,)
)
 Plaintiff,)
 vs.)
)
 PHILLIP LITTLE, in his individual)
 capacity; EARL STORMS, in his official)
 capacity; STEPHEN BUNN, in his official)
 capacity; PRENTIS BENSTON, in his)
 official capacity; JEFF SINGLETARY, in)
 his individual capacity; HENRY POOLE,)
 in his individual capacity; ESTATE OF)
 LINDA FAYE PROCTOR, in her official)
 capacity; SHEILA PRIDGEN, in her)
 official capacity; RITA BATCHELOR, in)
 her individual capacity; JOHN DOE)
 CORPORATION, in its capacity as Surety)
 on the Official Bond of the Sheriff of)
 Bladen County; and JACK DOE)
 CORPORATION, in its capacity as Surety)
 of the Official Bond of the Clerk of Court)
 for Columbus County,)
)
 Defendants.)
)
)

COMPLAINT
(Jury Trial Demanded)

Plaintiff Joseph Sledge, Jr., complaining of Defendants, alleges the following:

INTRODUCTION

1. In August 1978, Plaintiff Joseph Sledge, Jr. ("Sledge") was wrongfully convicted and sentenced to life imprisonment for the murders of Josephine Davis and Aileen Davis in Elizabethtown, North Carolina on September 6, 1976.

2. Sledge served 37 years in prison for crimes he did not commit.

3. The Bladen County Sheriff's Office initially identified Sledge as a suspect because he had escaped from White Lake Prison Camp, three to five miles from the Davis home, the day before the murders. Sledge was quickly apprehended and returned to prison, where he was serving a four-year term for non-violent offenses.

4. Further investigation demonstrated that Sledge was not the perpetrator. Investigating officers lifted 97 prints as part of their investigation and determined that none matched Sledge. Investigating officers found two palm prints on the floor on either side of Aileen Davis' head and determined that they were not made by Sledge or the victims. Investigating officers lifted the perpetrator's shoe prints from the crime scene and determined that they did not match the shoes Sledge was known to be wearing. In the absence of physical evidence linking Sledge to the murder victims, no charges were brought against him initially.

5. More than a year passed without anyone being charged for the murders. Public pressure on local law enforcement mounted. Eventually, Deputy Sheriff Phillip Little and SBI Special Agent Henry Poole procured statements from jailhouse informants Herman Baker and Donnie Lee Sutton, who falsely claimed that Sledge had confessed to the murders. Based on those false statements, Sledge was charged with the murders in February 1978.

6. The case was tried in Columbus County Superior Court in August 1978. Based primarily on the false testimony of Baker and Sutton, Sledge was convicted of the murders and sentenced to two consecutive terms of life imprisonment. Law enforcement officials withheld from Sledge's trial counsel early versions of statements provided by Sutton that were markedly inconsistent with the final version that was disclosed to trial counsel and with Sutton's trial testimony. In Sutton's initial and undisclosed statements, Sutton stated that Sledge denied committing the murders.

7. DNA testing first became available in the early 1990s. Beginning in 1993, Sledge made repeated requests to the Columbus County Clerk of Court (“CCCO”), the Bladen County Sheriff’s Office (“BCSO”), and the North Carolina State Bureau of Investigation (“SBI”) that the evidence in his case be subjected to DNA testing. Sledge’s requests were ignored for a decade.

8. From at least 1993 to 2013, CCCO, BCSO, and SBI had physical evidence in their possession that would have proved Sledge’s innocence.

9. In June 2003, the Honorable William C. Gore, Jr. (“Judge Gore”) granted Sledge’s *pro se* “motion for DNA Testing.” Judge Gore ordered all agencies involved in the investigation of the case to search for evidence from Sledge’s trial and submit any discovered evidence for DNA testing.

10. During the next nine years, in response to judicial inquiries and multiple requests from Sledge and his representatives, CCCO, BCSO, and SBI repeatedly claimed they were unable to find physical evidence from Sledge’s case.

11. On August 20, 2012, Rita Batchelor, a CCCO employee, informed counsel for Sledge that an envelope of evidence admitted during Sledge’s trial had been found on a shelf of CCCO’s evidence vault. The envelope contained hairs of African-American origin that had been recovered from the body of Aileen Davis, a white woman. The hairs had been left by the perpetrator on Aileen Davis’ naked torso and embedded in blood on her forehead. DNA testing of the hairs confirmed that Sledge, who is black, was not the source.

12. In August 2013, staff of the North Carolina Innocence Inquiry Commission (“the Commission”) conducted a search of the offices of BCSO. They found evidence including the 97 latent prints, files that were reported as destroyed or missing, and a bloody piece of linoleum taken from the crime scene. DNA testing of the evidence confirmed Sledge’s innocence.

13. In 2013, informant Herman Baker recanted his trial testimony.

14. In December 2014, the North Carolina Innocence Inquiry Commission referred Sledge's case to a hearing before a three-judge panel to determine his claim of innocence. On January 23, 2015, with the State's consent, the three-judge panel issued a unanimous decision that Sledge had proved by clear and convincing evidence that he was innocent of the murders of Josephine and Aileen Davis, and ordered his immediate release.

15. This action seeks to compensate Joseph Sledge for the 37 years he spent in prison as a result of Defendants' wrongful acts and omissions, and for the continuing effects of his wrongful incarceration.

16. As a direct and proximate result of Defendants' negligent, willful, wanton, reckless, and deliberately indifferent acts and omissions, Sledge sustained injuries and damages, including, among others, the following: personal injuries, physical injuries, physical pain and mental suffering, severe emotional distress, loss of income, humiliation, indignities and embarrassment, degradation, and restrictions on all facets of personal freedom including but not limited to diet, sleep, personal contact, educational opportunity, vocational opportunity, personal fulfillment, family relations, reading, enjoyment of life, and expression of his own desires and interests.

JURISDICTION AND VENUE

17. Sledge brings this action under 42 U.S.C. § 1983 for acts committed by Defendants under color of state law which deprived Sledge of his liberty without due process of law, in violation of the Fourteenth Amendment to the United States Constitution.

18. This action arises under the Constitution and laws of the United States.

19. This Court has original jurisdiction over Sledge's federal claims pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3).

20. This case also arises under the common law of the State of North Carolina. This Court has pendent jurisdiction over Sledge's state law claims pursuant to 28 U.S.C. § 1367.

21. All material events giving rise to this cause of action occurred in Bladen, Columbus, and Wake counties, North Carolina.

22. Upon information and belief, Defendant Phillip Little resides in Bladen County, North Carolina.

23. Upon information and belief, Defendant Earl Storms resides in Bladen County, North Carolina.

24. Upon information and belief, Defendant Stephen Bunn resides in Bladen County, North Carolina.

25. Upon information and belief, Defendant Prentis Benston resides in Bladen County, North Carolina.

26. Upon information and belief, Defendant Jeff Singletary resides in Bladen County, North Carolina.

27. Upon information and belief, Defendant Henry Poole resides in Wake County, North Carolina.

28. Upon information and belief, Defendant Linda Faye Proctor resided in Columbus County, North Carolina until her death in 1998.

29. Upon information and belief, Defendant Sheila Pridgen resides in Columbus County, North Carolina.

30. Upon information and belief, Defendant Rita Batchelor resides in Columbus County, North Carolina.

31. Under 28 U.S.C. § 1391(b), venue is proper in the United States District Court for the Eastern District of North Carolina.

PARTIES

32. Plaintiff Joseph Sledge, Jr. is a citizen and resident of Savannah, Georgia. Sledge was born on June 17, 1944, and is now 71 years old. Before he was charged with the murders of Josephine Davis and Aileen Davis, Sledge was a resident of Bladen County, North Carolina.

33. Upon information and belief, Defendant Phillip Little was a Deputy Sheriff in the Bladen County Sheriff's Office ("BCSO") from the early 1970s until 2010. Defendant Little was chief investigator for BCSO of the murders of Josephine and Aileen Davis. Defendant Little is sued in his individual capacity for acts taken under color of state law, within the course and scope of his employment with BCSO.

34. Defendant Earl Storms was Sheriff of Bladen County from 1978 to 1994 and Interim Sheriff of Bladen County from July 2010 through November 2010. During that time, Defendant Storms was the final policymaker for BCSO with respect to policing and law enforcement investigations within that jurisdiction. As Sheriff of Bladen County, Defendant Storms was vested with final policymaking authority for BCSO and Bladen County with respect to maintenance, inventorying, storage, and safekeeping of crime scene evidence under the custody of BCSO. Defendant Storms is sued in his official capacity.

35. Defendant Stephen Bunn was Sheriff of Bladen County from 1994 to July 2010. During that time, Defendant Bunn was the final policymaker for BCSO with respect to policing and law enforcement investigations within that jurisdiction. As Sheriff of Bladen County,

Defendant Bunn was vested with final policymaking authority for BCSO and Bladen County with respect to maintenance, inventorying, storage, and safekeeping of crime scene evidence under the custody of BCSO. Defendant Bunn is sued in his official capacity.

36. Defendant Prentis Benston was Sheriff of Bladen County from November 2010 to December 1, 2014. During that time, Defendant Benston was the final policymaker for the BCSO with respect to policing and law enforcement investigations within that jurisdiction. As Sheriff of Bladen County, Defendant Benston was vested with final policymaking authority for BCSO and Bladen County with respect to maintenance, inventorying, storage, and safekeeping of crime scene evidence under the custody of BCSO. Defendant Benston is sued in his official capacity.

37. Defendant Jeff Singletary was a Deputy Sheriff of Bladen County from 1991 to the present. During many of the years in which Sledge sought access to evidence in the possession of BCSO, Defendant Singletary was the BCSO officer with primary responsibility for evidence control. Defendant Singletary is sued in his individual capacity.

38. Defendant John Doe Corporation is a fictitious name for the Surety on the official bond of the Sheriff of Bladen County pursuant to N.C. Gen. Stat. § 162-8 and § 58-76-5, whose identity is presently unknown to Plaintiff. The true name of the corporation will be substituted for the fictitious name once the corporation's identity is learned. Plaintiff is informed and believes that Defendants Storms, Bunn and Benston are protected by a bond issued by the Surety, and that the Surety is a corporation authorized to conduct business in the State of North Carolina. Plaintiff institutes this action individually and, with respect to the claims on the official bond of Defendants Storms, Bunn and Benston, also on behalf of the State of North Carolina pursuant to N.C. Gen. Stat. § 58-76-5, *et seq.*

39. From approximately 1968 to 1998, Defendant Poole was employed by the North Carolina State Bureau of Investigation (“SBI”). Special Agent Poole was chief investigator for the SBI of the murders of Josephine and Aileen Davis. Defendant Poole is named as a defendant in his individual capacity for acts taken under color of state law, within the course and scope of his employment with the State of North Carolina.

40. Defendant Linda Faye Proctor was Clerk of Court of Columbus County from 1992 to 1998. As Clerk of Court, Defendant Proctor was vested with final policymaking authority for the Clerk’s Office (“CCCO”) and Columbus County with respect to maintenance, inventorying, storage, and safekeeping of crime scene evidence under the custody of CCCO. Defendant Proctor died in 1998. Her estate is sued in her official capacity.

41. Defendant Sheila Pridgen was Clerk of Court of Columbus County from 1998 to 2014. As Clerk of Court, Defendant Pridgen was vested with final policymaking authority for CCCO and Columbus County with respect to maintenance, inventorying, storage, and safekeeping of crime scene evidence under the custody of CCCO. Defendant Pridgen is sued in her official capacity.

42. Upon information and belief, Defendant Rita Batchelor has been Deputy Clerk of Court for Columbus County from before 2011 until the present. During that period, Defendant Batchelor was assigned primary responsibility for maintenance, inventorying, storage and safekeeping of crime scene evidence under the custody of CCCO. Defendant Batchelor is sued in her individual capacity for acts taken under color of state law, within the course and scope of her employment with the State of North Carolina.

43. Defendant Jack Doe Corporation is a fictitious name for the Surety on the Official Bond of Defendants Proctor and Pridgen as Clerk of Court pursuant to N.C. Gen. Stat. § 7A-107,

whose identity is presently unknown to Plaintiff. The true name of the corporation will be substituted for the fictitious name once the corporation's identity is learned. Plaintiff is informed and believes that Defendants Proctor and Pridgen are protected by a bond issued by the Surety, and that the Surety is a corporation authorized to conduct business in the State of North Carolina. Plaintiff institutes this action individually and, with respect to the claims on the official bond of Defendants Proctor and Pridgen, also on behalf of the State of North Carolina pursuant to N.C. Gen. Stat. § 58-76-5, *et seq.*

44. At all times relevant hereto, in committing the acts and omissions herein alleged, each of the Defendants was acting within the scope of his or her employment and under color of state law.

45. Upon information and belief, Defendants are insured by one or more policies of liability insurance purchased pursuant to N.C. Gen. Stat. § 153A-435 or other applicable state law with respect to all acts and omissions complained of herein, or participate in a government risk pool pursuant to N.C. Gen. Stat. § 58-23-5, or maintain a funded reserve and to such extent, Defendants have waived any official, sovereign, qualified or governmental immunity to which they might otherwise be entitled in their official capacities. To the extent that may be required by law, Plaintiff hereby waives the right to a jury trial on all issues of law or fact relating to insurance coverage.

FACTS

I. Sledge Is Wrongfully Convicted of Murdering Josephine and Aileen Davis.

A. Josephine and Aileen Davis Are Brutally Murdered.

46. In September 1976, Josephine Davis ("Josephine"), age 74, and her daughter Aileen Davis ("Aileen"), age 57, were murdered in their home in Elizabethtown, North Carolina.

The Davises were last seen alive by Omega Hales, Josephine's daughter and Aileen's sister, on September 5, 1976 at 10:30 p.m. Wanda Sue Hales ("Wanda"), Omega's daughter, discovered the bodies on September 6, 1976 at 4:30 p.m.

47. Wanda arrived at her grandmother's home and pushed open the front door. Wanda saw her aunt lying on the floor with blood all over her face, her grandmother's body lying nearby, and blood on the side of the refrigerator. The dresses and slippers of both victims were lifted toward their heads, exposing their naked torsos and legs.

48. Wanda returned to her own home, roughly 200 yards from the crime scene, and informed her mother of what she had seen. Her mother called the Bladen County Sheriff's Office ("BCSO").

49. Sheriff John Allen and Defendant Earl Storms, then a Deputy Sheriff, came to the crime scene shortly after 4:30 p.m. Sheriff Allen called Defendant Deputy Sheriff Phillip Little, a BCSO detective, to come to the crime scene and begin the investigation.

50. Defendant Little, assisted by Storms, entered the Davis home at approximately 5:15 p.m. to process the crime scene.

51. Defendant Little collected hairs from the abdomen and forehead of Aileen's body. The hairs collected from her forehead were embedded in blood. BCSO officers determined that the hairs came from the perpetrator and the perpetrator was not Caucasian.

52. The crime scene was covered in blood. Latent fingerprints, bloody palm prints, and shoe prints, all of which BCSO officers determined were from the perpetrator, were collected throughout the Davis home. The victims were beaten and stabbed repeatedly. The cause of death for both victims was hemorrhaging due to multiple stab wounds to the head and neck.

53. The medical examiner who examined the bodies at the crime scene estimated the time of death to be between 8:00 a.m. and 10:00 a.m. on September 6. The presence of wet blood when the officers arrived made it more likely that the time of death was after 10:00 a.m.

54. An autopsy indicated that Aileen had been sexually assaulted. Handprints were found on the floor on either side of Aileen's head, as if the perpetrator was in a "push-up" position.

55. On September 6, 1976, Sheriff Allen told reporters, "This is the most brutal murder I've seen since I have been sheriff in Bladen County, and I have been sheriff for 30 years."

B. Sledge Is Identified as a Suspect.

56. In September 1976, Sledge, age 32, was serving a four-year prison sentence in minimum custody for larceny and receiving stolen goods (clothing) convictions and a six-month sentence for escape. He had less than a year left on his sentence. All of Sledge's prior convictions were for non-violent, theft-related misdemeanors.

57. In March 1976, Sledge was on a White Lake Prison Camp road crew with an inmate named John Fowler. Fowler was in prison for murder and had a violent reputation. Fowler hit Sledge while they were working, fracturing his skull. Sledge reported the assault, which caused Fowler to be sent to another prison and to lose his honor grade for six months.

58. In late August or early September 1976, Fowler returned to White Lake Prison Camp and was placed back on work rotation with Sledge. Sledge, who was much smaller than Fowler, feared that Fowler would retaliate by attacking him. Sledge decided he would be safer outside of the prison.

59. In the four-month period from June to September 1976, there were 15 escapes from White Lake Prison Camp.

60. Sledge left White Lake Prison Camp by foot on September 5, 1976. That night he walked to Elizabethtown. At about 2:00 a.m. on September 6, he noticed a car with keys in it, stole the car, and headed to Fayetteville. He was in Fayetteville by 3:15 a.m. – at least five hours before the medical examiner’s estimated time of murder.

61. After the victims were found on September 6, Sledge was immediately considered the prime suspect in the case, based only on his recent escape.

62. Sledge was apprehended by law enforcement in Dillon, South Carolina on September 9, 1976. He was returned to North Carolina and placed in the Cumberland County Jail.

C. Further Investigation Reveals that Sledge Is Not the Perpetrator.

63. Defendant Little interviewed Sledge and brought him to the scene of the crime. Sledge denied any involvement in the murders. He described in detail the route he took after he left White Lake Prison Camp. He consented to give samples of his blood and pubic hair.

64. BCSO investigators collected fingerprints from the scene of the crime, many of which they determined were left by the perpetrator. None of the fingerprints matched Sledge.

65. BCSO investigators collected the perpetrator’s shoe prints from inside and outside the Davis’ home. None of the shoe prints matched the shoes Sledge was known to be wearing.

66. BCSO investigators collected palm prints from either side of Aileen Davis’ head. One of the prints was a bloody palm print, with ridge lines that were visibly left in blood. The palm prints were in “push-up position” consistent with sexual assault. The palm prints did not match Sledge.

67. BCSO's investigation failed to produce any evidence linking Sledge to the murders.

D. Pressure Mounts to Solve the Case.

68. On October 1, 1976, Sheriff Allen formally requested investigative assistance from the SBI and specifically asked that SBI agents be assigned to assist Defendant Little with the investigation.

69. Defendant Little lived less than a mile from the Davis home and had known the two victims almost all his life.

70. On October 6, 1976, Governor James E. Holshouser, Jr. offered a \$2,500 reward "to be paid to any person or persons who shall furnish information to the Sheriff of Bladen County or the Director of the State Bureau of Investigation, leading to the arrest and conviction of the person or persons responsible for participating in, or conspiring to commit the above-described murders."

71. In August 1977, Josephine's son Lonnie Davis wrote the SBI requesting a status update on the case. The SBI Director wrote back on August 12, 1977, saying the "investigation to date has failed to produce sufficient evidence to justify an arrest."

72. On September 12, 1977, SBI Agent Defendant Henry Poole was assigned to assist Defendant Little with the investigation.

73. In September 1977, the case was profiled in the North Carolina Crime Digest as one of the "major" unsolved homicides in North Carolina.

74. On December 15, 1977, Governor James B. Hunt doubled the reward to \$5,000 after a family member of the victims contacted the SBI and asked why there had been no advances in the case.

75. The crime was profiled in an article in the Wilmington Morning Star in January 1978. The article discussed six unsolved homicides that occurred locally between September 1976 and January 1978 – an unusually high number in a rural area in such a short period of time.

76. In early 1978, residents of Bladen County were becoming vocal about their lack of confidence in the BCSO. Quotes in the local newspaper indicated people were becoming afraid due to the unusually high number of murders in the area – many still unsolved. Residents formed a 24-hour “armed guard patrolling north of the Cape Fear River” and stated that it was “getting to the point where people will have to enforce the law themselves to be safe.”

77. In late 1977 and early 1978, the BCSO and the SBI were under intense pressure to solve the case.

E. Defendants Little and Poole Procure False Testimony to Secure Sledge’s Indictment.

78. Two investigators had primary responsibility for the case: BCSO Deputy Sheriff Philip Little and SBI Special Agent Henry Poole.

79. In late 1977 and early 1978, Defendant Little and Defendant Poole interviewed numerous inmates who had been incarcerated with Sledge to try to elicit testimony that Sledge had acknowledged committing the Davis murders.

80. Defendants Little and Poole interviewed Herman Baker, who was incarcerated with Sledge at the Moore County Prison Camp in Carthage in June and July 1977 and transferred to White Lake Prison Camp later in 1977.

81. Baker was provided with detailed information about the murders, including facts that had not been publicly reported, such as the fact that Josephine’s jaw had been broken. Baker agreed to testify that Sledge had confessed to the murders, even though Sledge had made no confession.

82. Although Defendants Little and Poole gave polygraph tests to prisoners who denied that Mr. Sledge ever implicated himself in the Davis murders, they did not administer a polygraph test to Baker to evaluate his truthfulness.

83. After Baker testified for the State at Sledge's trial, the State of North Carolina paid him \$3,000 as a reward for his testimony.

F. Defendants Little and Poole Deliberately Conceal Exculpatory Evidence from Sledge.

84. Donnie Lee Sutton, who had been convicted of murder and other violent crimes, was in the Cumberland County Jail with Sledge after Sledge was recaptured.

85. In 1977 and 1978, Defendants Poole and Little conducted a series of interviews with Sutton in an effort to obtain testimony that Sledge had confessed to the murders.

86. Defendants Poole and Little first interviewed Sutton on November 4, 1977. In that interview, Sutton reported that Sledge told him that law enforcement authorities suspected Sledge of killing two women, but denied he had committed the murders.

87. Defendants Poole and Little interviewed Sutton again on February 8, 1978. During this interview, Sutton purportedly claimed that Sledge told him the Davis women were supposed to die and he was glad they were dead. Sutton said Sledge hated white women and called them "she-devils." Sutton said he remembered Sledge talking about a lot of blood, but he could not recall exactly what was said about the blood. The interview concluded with Sutton saying it had been a long time since he had spoken with Sledge and he needed time to think about it and "put their conversation together."

88. Defendants Poole and Little, along with White Lake Prison Camp Assistant Supervisor Gene Stewart, interviewed Sutton a third time on February 10, 1978. As in his first interview, Sutton stated that Sledge said he was not involved in the murders. However, Sutton

claimed Sledge said, "They should be dead," and mentioned a lot of blood. The agents noted at the bottom of the interview that "Sutton stated that he needed to think about their conversation and would probably be able to recall more of what he and Sledge talked about."

89. At trial, Defendant Poole testified that he interviewed Sutton on February 15, 1978, but did not disclose the previous three interviews.

90. In the February 15 interview, Sutton changed his story and claimed for the first time that Sledge told him he had committed the murders. Sutton's statement was false.

91. In their investigation of the Davis murders, Defendants Little and Poole conducted polygraph examinations of 11 people, including several prisoners who said that Sledge did not confess to the crimes. After Sutton falsely told them that Sledge had confessed, Defendants Little and Poole chose not to polygraph Sutton because they expected the polygraph to indicate that Sutton was lying.

92. Sutton's trial testimony was far different than his previous statements. At trial, Sutton testified that when he was in the Cumberland County Jail with Sledge in September 1976, Sledge told him that he had killed the two women in Bladen County.

93. Three months after testifying for the State, Sutton received \$2,000 from the State of North Carolina as a reward for his testimony.

94. Although Sutton had only served nine years of an active sentence of 28 to 30 years, he was released from prison less than three years after he testified at Sledge's trial.

95. At the time of the murders, Sutton had also been an escapee from White Lake Prison Camp. When Sutton testified at Sledge's trial, he had a case pending against him for that escape, but there is no record of that charge being pursued after he testified against Sledge.

96. Defendant Little and Defendant Poole documented their first three interviews with Sutton, but deliberately did not provide those interview records to the prosecutor or Sledge's trial counsel. The three interview records, if disclosed, would have destroyed Sutton's credibility because they were internally inconsistent and contradicted Sutton's testimony at trial.

G. Based on the False Testimony of Jailhouse Informants, Sledge Is Convicted and Sentenced to Life Imprisonment.

97. Sledge was indicted in February 1978, a year and a half after the murders were committed.

98. Although the crimes occurred in Bladen County, the trial was moved to neighboring Columbus County because of extensive pre-trial publicity.

99. On May 1, 1978, Sledge was tried in Columbus County Superior Court. District Attorney Lee Greer and Assistant Attorney General Lester Chalmers represented the State. Sledge was represented by appointed counsel Reuben Moore. After a day and a half of deliberations, the jury foreman reported that the jury remained "hopelessly deadlocked," and Judge Herring declared a mistrial.

100. A second trial was held in August 1978. The Honorable Giles R. Clark presided. Assistant District Attorney Mike Easley and Assistant Attorney General Lester Chalmers represented the State, and Sledge was again represented by Reuben Moore.

101. Baker falsely testified that, while they were both incarcerated at the Carthage Prison Unit in 1977, Sledge told him he had stabbed and killed two women in Bladen County after he escaped from White Lake Prison Camp.

102. Baker testified that he had no knowledge of the reward in the Davis case until he saw it posted on the bulletin board as he was coming out of the office after speaking with law

enforcement. The jury was never told that Baker would be receiving \$3,000 from the State of North Carolina as a reward for his testimony.

103. Sutton testified that he was in the Cumberland County Jail with Sledge in September 1976. He testified that Sledge confessed he had killed two women in Bladen County, saying “the women were cut up . . . they were stabbed, and there was a lot of blood.”

104. Sutton testified that Sledge told him “he was put in a position where he had to” kill the women. As Sutton and Sledge were eating breakfast, Sutton said Sledge commented, “[T]hey [are] two bitches that [will] never eat breakfast again.”

105. Sutton testified that Sledge would often speak to him about “white women out to possess the black man’s mind.” He said Sledge referred to white women as “she devils” and said “they were bad for the black man out to get their minds.” According to Sutton, Sledge believed that white women were “sort of like a crutch for the white man to rule the black man.” He claimed Sledge went on to tell him that “the black man should rebel over this here and should kill every one that really should cross their path.”

106. Sledge truthfully testified at trial. He consistently maintained his innocence of the murders throughout the direct and cross-examinations, as he did before trial and has done since his conviction.

107. Sledge explained to the jury the circumstances of his escape and detailed the route he took from White Lake Prison Camp to Dillon, South Carolina where he was arrested a few days later.

108. Sledge denied ever going to the Davis residence or passing by it.

109. The Davis home was between three and five miles from White Lake Prison Camp, depending whether one traveled on the highway or through the woods.

110. Sledge acknowledged that he was placed in a cellblock with Sutton but denied ever making any incriminating statements to anyone – including Sutton.

111. Contrary to Baker’s testimony, Sledge testified that he never spoke with Baker about the murders.

112. The testimony of Baker and Sutton, coupled with the coincidental timing of Sledge’s escape from White Lake Prison Camp, was impossible for Sledge to overcome. On August 31, 1978, Sledge was convicted of two counts of second-degree murder and was sentenced to consecutive life sentences in prison.

113. In a memorandum requesting that Baker and Sutton be given payment for their testimony, the SBI stated: “As a result of this information and testimony by both Baker and Sutton, Sledge was convicted of two (2) counts of murder during August 1978 and received two (2) life sentences.”

114. The North Carolina Supreme Court denied Sledge’s direct appeal on May 17, 1979. *State v. Sledge*, 297 N.C. 227, 254 S.E.2d 579 (1979).

II. From 1993 to 2013, Sledge Is Wrongfully Denied Access to DNA Testing of the Evidence.

115. In the late 1970s, DNA testing was still a decade away from being used as a tool in criminal investigations.

116. At various points throughout the investigation of the Davis murder, Defendants collected fingerprints and blood samples from the crime scene.

117. Hair microscopy, which was used to link the “Negroid” pubic hairs recovered from Aileen Davis’ body to Sledge, is no longer used as evidence of identity in North Carolina prosecutions and is only used as a screening tool by the North Carolina State Crime Lab before evidence undergoes DNA testing.

118. On September 6, 1976, Defendant Little collected several African-American hairs from the body of Aileen Davis.

119. The African-American hairs, determined to be “microscopically consistent” with Sledge, were removed from the canister that stored them after collection and were placed on a slide labeled “Q4” for analysis, which was sealed within an envelope admitted at trial as Exhibit 12-A. The canister in which the hairs were originally secured was admitted at trial as Exhibit 12-C.

120. In the early 1990s, DNA testing first became available in North Carolina.

121. Between 1980 and 2002, Sledge filed more than 25 *pro se* post-conviction motions proclaiming his innocence in state and federal court.

122. On June 15, 1993 Sledge wrote the SBI and requested copies of the hair and blood evidence in his case so that DNA testing could be performed. Harold Elliott of the SBI referred Sledge to the Columbus County Clerk of Court.

123. On October 3, 1993, Sledge wrote the Columbus County Clerk of Court (“CCCO”) and requested copies of the hair and blood evidence in his case so that DNA testing could be performed. Sledge explained that he had already written the SBI to obtain the same information and that Harold Elliott of the SBI referred him to the Clerk’s Office.

124. From 1993 to 2003, Sledge and organizations acting on his behalf made multiple written requests for DNA testing of evidence to CCCO. Although CCCO retained evidence that had been introduced in Sledge’s trial, including hair and blood samples suitable for DNA testing, it told Sledge that it no longer had such evidence in its possession.

125. There were multiple gross deficiencies in CCCO’s practices for inventorying, storing, and safekeeping evidence.

126. CCCO failed to adequately inventory and store evidence. Evidence was haphazardly stored in the CCCO's evidence vault. Evidence from a single case could be spread across multiple locations within the vault, with no system in place to ensure that any attempt to recover evidence would be comprehensive or effective. Because of the CCCO's deficient evidence storage system, CCCO knew that extensive searches were required to locate evidence related to any case. The CCCO conducted only cursory searches before responding to requests for evidence.

127. From 1993 to 2003, Sledge made multiple written requests for DNA testing of evidence to the Bladen County Sheriff's Office. Although BCSO retained evidence from Sledge's case, including physical evidence suitable for DNA testing, it claimed it had no such evidence in its possession.

128. On June 4, 2003, Sledge filed a *pro se* "Motion for DNA Testing," which was granted on June 11, 2003 by the Honorable William C. Gore, Jr. ("Judge Gore"). The Order stated in pertinent part:

The court having reviewed [the Motion for DNA Testing] generally finds the defendant is entitled to the DNA testing he is requesting if the evidence is available.

It is therefore ordered that any agency that was involved in the investigation of this case is to attempt to locate said evidence referred to in the attached motion. If said evidence is located the testing requested by the defendant is hereby ordered.

129. At the time the Order was issued, CCCO possessed evidence admitted at trial, including the victims' clothing and the African-American hairs removed from Aileen Davis' torso and head. At the time the Order was issued, either the BCSO or the SBI possessed biological evidence that had not been admitted at trial, including victim and suspect elimination prints and the bloody palm print lifted from the floor beside Aileen Davis' head. Although the

agencies were aware of Judge Gore's Order, none notified the Court that they possessed evidence covered by the Order, and none complied with the Order.

130. In October 2004, the North Carolina Center on Actual Innocence agreed to represent Sledge.

131. On December 8, 2004, Judge Gore responded to a letter from Sledge asking whether the various government agencies had complied with his Court Order. Judge Gore wrote: "As a Superior Court judge I am not in a position to make any further investigation into your claims . . . [u]nless there is some reason to believe that Law Enforcement Officials, Prosecutors or other witnesses are willfully disobeying this court's order to produce the evidence you have sought I will not take any further action in this matter."

132. On December 20, 2004, Sledge wrote Judge Gore a letter proclaiming his innocence and asking why no affidavits had been filed by the investigating agencies explaining why the evidence could not be located.

133. On June 7, 2005, after prompting by Sledge's representatives, D.A. Rex Gore filed an affidavit stating that he had contacted BCSO and CCCO to determine if any evidence still existed. According to the affidavit, Defendant Chief Deputy Sheriff Little informed D.A. Gore that "he had no such material and that his contact with other agencies did not yield any such material." In his affidavit, D.A. Gore stated that CCCO indicated that it still had in its possession items entered into evidence in Sledge's trial.

134. CCCO indicated that it had in its possession Trial Exhibits 12-B, 12-C, and 12-D. Despite Judge Gore's Order, CCCO did not produce the evidence for analysis. CCCO did not indicate that it possessed additional evidence, including the victims' clothing and Trial Exhibit 12-A, which included the Q4 slide containing the hairs collected from Aileen Davis' torso.

135. On June 8, 2006, Judge Gore issued another Consent Order directing that the CCCO “submit the biological evidence to the North Carolina Bureau of Investigation Crime Laboratory for STR and/or nuclear DNA analysis.” Judge Gore directed that “[t]he testing be completed as soon as possible.” CCCO again did not comply with Judge Gore’s Order.

136. In June 2007, Sledge wrote the SBI Crime Laboratory to inquire about its compliance with Judge Gore’s Order. The letter included his criminal case number, and noted that Judge Gore “issued a Consent Order to perform DNA testing on the forensic evidence recovered in this case[.]”

137. In August 2007, the SBI Crime Laboratory mailed BCSO an envelope containing evidence from Sledge’s case. The envelope included victim and suspect elimination prints; shoe prints; crime scene latent prints, including the bloody palm print lifted from the floor beside Aileen Davis’ head; and a piece of linoleum from the crime scene with a bloodstain. The SBI did not notify Sledge, Sledge’s counsel, or any court that it had possessed this evidence or that it mailed the evidence to BCSO. BCSO did not notify Sledge, Sledge’s counsel, or any court that it received this evidence and now had it in its possession. Before 2007, the envelope of evidence was either in the custody of BCSO or was in the custody of the SBI, which BCSO knew or should have known.

138. In November 2007, the SBI Crime Laboratory replied to Sledge’s letter from June 2007, stating that “[b]ased on the information provided in your letter we have no record of the evidence being submitted to the SBI Crime Laboratory.”

139. In 2008, Senior Resident Court Judge Douglas B. Sasser contacted the CCCO to request an update on its compliance with Judge Gore’s Consent Order. Defendant Pridgen

responded by requesting “some guidance on how we should proceed with sending evidence to the SBI so that chain of custody can be maintained.”

140. On September 17, 2008, Judge Sasser issued a Consent Order directing BCSO to obtain the evidence from CCCO and submit it for testing. Judge Sasser ordered that any evidence “remaining after testing be preserved and returned to the [CCCO].”

141. Later in September 2008, CCCO produced some but not all the evidence that was admitted at trial. It produced exhibits 12-C and 12-D, along with additional evidence it found in the years after D.A. Gore first contacted it in 2005. It had since lost Exhibit 12-B, and therefore did not produce it. Despite the numerous court orders to produce all case-related evidence, CCCO claimed that it did not possess any additional evidence, even though it also possessed the hair evidence admitted in Sledge’s trial.

142. In 2009, the SBI Crime Laboratory released its analysis of the evidence produced by CCCO. All analysis conducted supported Sledge’s claim of innocence. However, Sledge was unable to definitively prove his innocence without the hair evidence.

143. On March 5, 2010, Judge Sasser issued another Consent Order requiring BCSO to submit the evidence to LabCorp for further testing. Judge Sasser ordered CCCO and BCSO to submit “sworn affidavits that all evidence associated with the investigation of the murders of Aileen Davis and Josephine Davis and/or the conviction of Defendant has been included in the packaging for transfer to LabCorp.”

144. Despite Judge Sasser’s Order, CCCO did not submit the hair evidence it possessed, and falsely stated that it did not possess that evidence. Despite Judge Sasser’s Order, BCSO submitted none of the evidence in its possession, and falsely stated that it did not possess that evidence.

145. LabCorp's analysis of the evidence that was produced also supported Sledge's innocence but was insufficient to prove his innocence.

146. In each year from 2003 to 2012, individuals including Sledge, Sledge's representatives, and government officials repeatedly contacted BCSO, CCCO, and the SBI requesting that they comply with Judge Gore and Judge Sasser's orders and produce all evidence related to Sledge's trial and conviction. CCCO repeatedly and inaccurately stated that it had produced all evidence in its possession. The SBI and BCSO repeatedly and inaccurately stated that they did not possess any evidence.

III. Sledge is Exonerated.

A. In 2012, Evidence Misplaced by CCCO Proves Sledge's Innocence.

147. On August 20, 2012, Assistant Clerk Rita Batchelor contacted defense counsel Christine Mumma to inform her that an additional envelope of evidence admitted into evidence in Sledge's trial had been located on a shelf in a CCCO evidence vault. The evidence in the envelope included Slide Q4, the missing hair evidence.

148. Counsel for Sledge requested that the evidence immediately be sent to a laboratory for DNA testing, pursuant to the prior court order.

149. On November 5, 2012, the slides with the hair evidence were transferred to Mitotyping Technologies in State College, Pennsylvania for DNA analysis.

150. On December 13, 2012, Mitotyping Technologies reported that its DNA testing of an African-American head hair and an African-American pubic hair mounted on the Q4 slides definitively exclude Sledge as the source of those hairs.

151. In August 2013, at the request of the North Carolina Innocence Inquiry Commission, Mitotyping Technologies completed testing of all nine hairs that Defendant Little

collected from the naked torso of Aileen Davis on September 6, 1976, mounted on the Q4 microscope slide.

152. DNA testing of the nine hairs on the Q4 slide confirmed that all the hairs are of African-American origin and all come from the same maternal lineage, and that Joseph Sledge, Herman Baker, and the victims are excluded as contributors.

153. DNA testing in 2012 and 2013 excluded Sledge as the perpetrator.

154. Not a single piece of physical evidence ties Sledge to the crime.

B. Herman Baker Recants his Trial Testimony.

155. Baker and Sutton were the primary witnesses against Sledge. Baker testified at trial that Sledge confessed to him while the two men were imprisoned at Moore County Prison Camp in Carthage in the summer of 1977. Baker testified about details of the murders that he only could have known if 1) he was the perpetrator; 2) he had spoken to the true perpetrator, or 3) he was given the information by law enforcement.

156. On March 7, 2013, the SBI interviewed Mike Easley, the lead prosecutor in the case. Easley told the SBI that “the testimony of the inmates against Sledge was the most critical part of the prosecution.”

157. Baker testified before the Commission in December 2014. There he stated under oath that Sledge never confessed to committing the murders, hurting anyone, or attacking anyone.

158. Baker testified at the Commission hearing about his reason for giving false testimony at Sledge’s trial:

Because I was in the hole for possession of marijuana and heroin, and they came and talked to me, took me to the warden’s office and talked to me. And they told me they’d give me a deal if I say, you know, say that Joe Sledge told it, told me that.

159. Donnie Lee Sutton, the other jailhouse informant who testified for the State, died in 1991.

C. **In 2013 -- Twenty Years After Sledge's First Request for DNA Testing -- BCSO Produces Evidence that Confirms His Innocence.**

160. On May 20, 2013, the North Carolina Center on Actual Innocence formally referred Sledge's case to the Commission and transferred its complete file to the Commission. In the referral letter, Chris Mumma, the Center's Executive Director, explained:

Although we have been told there are no longer any prosecution or law enforcement files and that the other physical evidence is missing, we believe it is possible that the Commission staff will be able to uncover additional evidence, whether physical or documentary, through its own investigation. Specifically, we believe it would be beneficial to locate the rape kit, the latent prints taken from the crime scene, and any law enforcement or prosecution files that still exist.

161. On June 28, 2013, the Commission accepted Sledge's case for Formal Inquiry, pursuant to N.C. Gen. Stat. §15A-1467. The Commission sent notices to preserve and produce evidence to the District Attorney's Office, CCCO, BCSO and the SBI.

162. On August 13-14, 2013, in preparation of a search of the premises by Commission staff, BCSO located two files related to the Sledge case. The files were transferred to the Commission, which provided digital copies to Mumma.

163. On August 26-29, 2013, Commission staff members Sharon Stellato and Lindsey Guice Smith conducted a search of the premises of BCSO.

164. Before the search on August 26-29, 2013, Defendant Singletary and Defendant Benston told Stellato and Smith that BCSO had previously conducted a diligent search to locate all files and evidence in the Sledge case.

165. During their search on August 26-29, 2013, Stellato and Smith located additional law enforcement investigative files, as well as physical evidence that BCSO and the SBI had claimed no longer existed. Items found by Stellato and Smith included:

- (a) A file labeled "Joseph Sledge" located in a BCSO gun vault in a box labeled "Phillip Little Drug Cases." The file contained letters to Defendant Little from Sledge. In letters Sledge sent to Defendant Little in 2004, Sledge requested that Little locate the physical evidence in the case so it could be tested to identify the actual perpetrator of the murders.
- (b) A sealed SBI envelope with the SBI report attached to the outside of the envelope. It was located in a BCSO gun vault, and purported to contain a "Ziploc bag of Joseph Sledge, Jr." and a "canister from the body of A. Davis" that was sent to the SBI in 2008 and subsequently returned to BCSO.
- (c) An unsealed envelope also located in the BCSO gun vault that contained a letter from Adrian Sellers to Phillip Little and two notebooks with handwritten notes related to the Sledge investigation.
- (d) A sealed SBI envelope with a letter from the SBI attached to the outside, also located in the BCSO gun vault. The letter was dated August 9, 2007, and was addressed to the BCSO's "Evidence Custodian." The envelope contained victim and suspect elimination prints; shoe prints; crime scene latent prints, including a bloody palm print lifted from the floor beside of Aileen Davis' head; and a piece of linoleum from the crime scene with what appeared to be a bloodstain. The prints were returned to BCSO from the SBI in 2007.
- (e) A sealed box returned to BCSO from LabCorp on October 11, 2010. The box contained the victims' dresses and slips, the pepper can, and DNA extracts, all of which BCSO had previously declared to be missing.

166. The Commission's discovery of the prints and other evidence collected from the original investigation provided further proof of Sledge's innocence.

167. DNA testing of the bloodstained piece of linoleum revealed that the blood came from two different men, but excluded Sledge as a possible source. The DNA profile from the linoleum was consistent with the partial profile obtained from the victims' dress and slip. Testing did not exclude a number of alternative suspects as possible sources.

168. The Commission retained an expert to analyze fingerprints and palm prints found at the scene of the crime, including the bloody palm print found beside the head of Aileen Davis. The expert's ridge analysis excluded Sledge from all identifiable prints. The expert's DNA analysis excluded Sledge from all prints that were suitable for testing. DNA tests conducted on the bloody palm print left by the perpetrator excluded both Sledge and the victims as possible contributors.

169. None of the prints or the DNA tested from any piece of crime scene evidence was consistent with Sledge.

170. In the course of its search for evidence in the custody of BCSO, Commission staff identified multiple gross deficiencies in BCSO's practices for inventorying, storing and safekeeping evidence.

171. In the course of its search for evidence in the custody of BCSO, Commission staff identified multiple instances in which BCSO misplaced or "lost" evidence related to Sledge's case.

172. In 2008 or 2009, BCSO sent evidence in the case to the SBI for testing. After the SBI returned the evidence to BCSO in October 2010, BCSO claimed to have "lost" the evidence.

173. As of August 2013, BCSO stored physical evidence from old cases in multiple locations, with no system for inventorying or locating the evidence.

174. As of August 2013, eight people had keys to the BCSO evidence room, jeopardizing the security of the evidence.

175. As of August 2013, some evidence in BCSO custody was stored in locations unknown to Lieutenant Jeff Singletary, the BCSO officer who had primary responsibility for evidence control.

176. In its search of BCSO in August 2013, Commission staff found padlocked evidence lockers that BCSO had not opened despite Sledge's multiple requests for production and testing of evidence. Although the lockers were in BCSO's control, BCSO officers claimed they had no keys to any of the locks. To provide access to Commission staff, BCSO officers had to cut off the locks. When the lockers were opened, Commission staff determined that each locker contained physical evidence, and several contained evidence in Sledge's case.

177. In one of the lockers, Commission staff found a package labeled "Sledge." The package included 97 latent fingerprint lifts, a piece of blood-stained linoleum, and a white paper bag, all collected from the Davis crime scene. Documentation inside the package indicated that the SBI had returned the evidence to BCSO in 2007.

178. In a second locker, Commission staff found another envelope related to the Sledge case, including lab reports, an empty Ziploc bag, and a canister that had been sent to the SBI in 2008.

179. In a third locker, Commission staff found a box containing a letter from Adrian Sellers to Defendant Little as well as two handwritten notebooks related to the Sledge investigation.

180. The Commission's search of BCSO in August 2013 included eight large metal containers, referred to as a "conexes." The conexes were not in a climate-controlled area, jeopardizing the integrity of the evidence.

181. In one conex, Stellato and Smith found a box that LabCorp had returned to BCSO in 2010, including dresses and slips of the Davis victims, and a pepper can collected at the crime scene.

182. Immediately after Stellato and Smith completed their search of BCSO in August 2013, they met with Defendant Sheriff Benston to report on what they had found, including multiple deficiencies in BCSO's practices for inventorying, storing and safeguarding evidence.

183. The BCSO was ignorant of the facilities in which evidence was stored and maintained a pervasive practice of failing to inventory evidence, improperly storing biological evidence, disregarding requests to locate evidence, and responding inaccurately to inquiries about the presence of evidence.

184. On September 5, 2013, Stellato and Smith wrote a memorandum to Defendant Benston, District Attorney Jon David and SBI Special Agent Chad Barefoot describing their search of BCSO and noting numerous deficiencies in BCSO's practices for evidence storage and control.

D. In January 2015, Sledge Is Exonerated and Released.

185. Sledge's claim of innocence was heard before the North Carolina Innocence Inquiry Commission on December 3-5, 2014 pursuant to N.C. Gen. Stat. § 15A-1460, *et seq.*

186. Following presentation of evidence during a three-day evidentiary hearing, the Commission concluded by a unanimous decision that there was sufficient evidence of factual innocence to merit further judicial review. That decision was memorialized in an Opinion filed on December 8, 2014.

187. Sledge's case then proceeded to a hearing before a three-judge panel pursuant to N.C. Gen. Stat. § 15A-1469. At the January 23, 2015 hearing, the State agreed Sledge had met his burden and proved by clear and convincing evidence that he is innocent. District Attorney Jon David stated: "Let me just be first on behalf of the State of North Carolina to apologize to Mr. Sledge for that The word 'sorry' is imperfect to convey the magnitude of what

happened with respect to this man's life over the last many years. The system, I believe, has made a mistake."

188. On January 23, 2015, the three-judge panel issued a Decision finding that "Joseph Sledge, Jr., the convicted person, has proven by clear and convincing evidence that he is innocent of the murders of Josephine and Aileen Davis in Bladen County on September 6, 1976."

189. Sledge was released from prison on January 23, 2015.

FIRST CAUSE OF ACTION

(42 U.S.C. § 1983 – Withholding Exculpatory Evidence in 1977 and 1978 – Little, Poole)

190. The allegations in the preceding paragraphs are incorporated by reference.

191. Defendants Little and Poole intentionally and in bad faith withheld material exculpatory evidence in 1977 and 1978, thereby violating Sledge's Fourteenth Amendment right not to be deprived of liberty without due process of law and to a fair criminal trial.

192. In 1977 and 1978, Defendants Little and Poole deliberately did not disclose exculpatory evidence to Sledge, his trial counsel, or the prosecutor. In particular, Defendants Little and Poole did not disclose that they had conducted multiple interviews with Donnie Lee Sutton, that Sutton provided a series of inconsistent versions of what Sledge allegedly told him about the crimes, and that Sutton's trial testimony -- that Sledge had confessed to the murders -- directly conflicted with what Sutton had told them about Sledge's statements in earlier interviews. Defendants Little and Poole deliberately did not disclose to Sledge, his trial counsel or the prosecutor the reports documenting their interviews with Sutton.

193. In withholding exculpatory evidence, Defendants Little and Poole acted with deliberate and/or reckless indifference to Sledge's constitutional rights. When Defendants

withheld exculpatory evidence, they could reasonably foresee that the failure to disclose the evidence would result in Sledge's conviction.

194. The withholding of exculpatory evidence by Defendants Little and Poole was a direct and proximate cause of Sledge's conviction and imprisonment. If Defendants had disclosed the exculpatory evidence so that Sledge's trial counsel could have made use of the evidence at trial, Sledge would not have been convicted.

195. The withholding of exculpatory evidence by Defendants Little and Poole deprived Sledge of his liberty without due process of law in violation of the Fourteenth Amendment to the United States Constitution.

196. Because Defendants Little and Poole wrongfully withheld exculpatory evidence, they are liable to Sledge for damages under 42 U.S.C. § 1983.

SECOND CAUSE OF ACTION

(42 U.S.C. § 1983 -- Withholding Exculpatory Evidence - 1993 to 2013 – Little)

197. The allegations in the preceding paragraphs are incorporated by reference.

198. Defendant Little intentionally and in bad faith withheld material exculpatory evidence from 1993 to 2013, thereby violating Sledge's Fourteenth Amendment right not to be deprived of liberty without due process of law and to a fair criminal trial.

199. Beginning in 1993 and continuing until 2013, including 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012 and 2013, Sledge and his representatives repeatedly requested Defendant Little to produce evidence and files related to Sledge's case, and requested that the physical evidence be subjected to DNA testing.

200. From 1993 to 2013, Defendant Little deliberately concealed the fact that he had files and evidence related to Sledge's case in his possession, custody and control, including physical evidence that could be subjected to DNA testing.

201. From 1993 to 2013, Defendant Little falsely claimed that he had no files and evidence related to Sledge's case in his possession, custody or control.

202. In 2013, staff from the Innocence Inquiry Commission discovered Defendant Little's files related to Sledge's case. The files contained documents and physical evidence that established Sledge's innocence.

203. In concealing and withholding exculpatory evidence from 1993 to 2013, Defendant Little acted in violation of and with deliberate and/or reckless indifference to Sledge's constitutional rights.

204. Defendant Little had in his possession evidence that would have proved Sledge's innocence of the crimes for which he was convicted and imprisoned.

205. Because of Defendant Little's concealment and withholding of exculpatory evidence, Sledge could not file a Motion for Appropriate Relief based on new evidence under N.C. Gen. Stat. § 15A-1415(c). Such a motion based on the DNA testing of crime scene evidence or other scientific testing would have been successful, and would have freed Sledge from prison. Defendants' misconduct thus violated Sledge's rights to due process and to access the courts under the Fourteenth Amendment to the United States Constitution.

206. The concealment and withholding of exculpatory evidence by Defendant Little from 1993 to 2013 deprived Sledge of his liberty without due process of law and deprived Sledge access to the courts in violation of the Fourteenth Amendment to the United States Constitution.

207. As a direct result Defendant Little's concealment and withholding of exculpatory evidence from 1993 to 2013, Plaintiff Sledge was wrongfully imprisoned for more than 21 years, and suffered physical, emotional, and pecuniary damages. Defendant Little is thus liable to Sledge for damages pursuant to 42 U.S.C. § 1983.

THIRD CAUSE OF ACTION

(42 U.S.C. § 1983 Monell Claim – Due Process – 1993 to 2013 – Storms, Bunn, Benston)

208. The allegations in the preceding paragraphs are incorporated by reference.

209. During the years in which Defendants Earl Storms, Stephen Bunn and Prentis Benston held the positions of Sheriff of Bladen County, they were the final policymakers with respect to law enforcement activities for BCSO. Their actions constituted policy decisions that had the “stamp of approval” of BCSO.

210. As final policymaker for BCSO, Defendants Storms, Bunn and Benston created, promulgated, and maintained the following policies which deprived Sledge of his constitutional rights, including but not limited to, his due process rights and the right to not be subject to improper deprivations of liberty and the pursuit of happiness:

- (a) Defendants created, promulgated, and maintained a policy or practice of failing to properly and reasonably inventory, organize, and safekeep evidence;
- (b) Defendants created, promulgated, and maintained a policy or practice of not maintaining, storing, and safekeeping evidence used to subject persons to life sentences;
- (c) Defendants created, promulgated, and maintained a policy or practice of failing to make DNA evidence available to individuals upon request as required by N.C. Gen. Stat. § 15A-269;
- (d) Defendants created, promulgated, and maintained a policy or practice of failing to make evidence available for scientific testing and analysis;
- (e) Defendants created, promulgated, and maintained a policy or practice of failing to provide accurate and prompt responses to reasonable requests

regarding the existence of evidence under Defendants' possession, custody, or control; and

(f) in other respects to be proved through discovery and at trial.

211. As a direct result of the deficient policies and practices set forth above, although Defendants Storms, Bunn and Benston had in their possession evidence that would have proved Sledge's innocence of the crimes for which he was convicted and imprisoned, they failed to provide the evidence to Sledge despite his repeated requests from 1993 to 2013.

212. Because of the misconduct of Defendants Storms, Bunn and Benston, Sledge could not file a Motion for Appropriate Relief based on new evidence under N.C. Gen. Stat. § 15A-1415(c). Such a motion based on the DNA testing of crime scene evidence or other scientific testing would have been successful, and would have freed Sledge from prison. Defendants' misconduct thus violated Sledge's rights to due process and to access the courts under the Fourteenth Amendment to the United States Constitution.

213. As a direct result of the unconstitutional policies and/or practices of Defendants Storms, Bunn and Benston from 1993 to 2013, Sledge was wrongfully imprisoned for over 21 years, and suffered physical, emotional, and pecuniary damages. Defendants Storms, Bunn and Benston are thus liable to Sledge pursuant to 42 U.S.C. § 1983.

FOURTH CAUSE OF ACTION

(42 U.S.C. § 1983 Monell Claim – Due Process – 1993 to 2013 – Proctor, Pridgen)

214. The allegations in the preceding paragraphs are incorporated by reference.

215. During the years in which Defendants Proctor and Pridgen held the position of Clerk of Court of Columbus County, they were charged with performing the ministerial functions of maintaining evidence admitted at trial in cases tried in Columbus County Superior Court. Their ministerial duties included tracking, storing, and properly maintaining evidence.

216. As final policymaker for CCCO, Defendants Proctor and Pridgen created, promulgated, and maintained the following policies which deprived Sledge of his constitutional rights, including but not limited to, his due process rights and the right to not be subject to improper deprivations of liberty and the pursuit of happiness:

- (a) Defendants created, promulgated, and maintained a policy or practice of failing to properly and reasonably inventory, organize, and safekeep evidence;
- (b) Defendants created, promulgated, and maintained a policy or practice of not maintaining, storing, and safekeeping evidence used to subject persons to life sentences;
- (c) Defendants created, promulgated, and maintained a policy or practice of failing to make DNA evidence available to individuals upon request as required by N.C. Gen. Stat. § 15A-269;
- (d) Defendants created, promulgated, and maintained a policy or practice of failing to make evidence available for scientific testing and analysis;
- (e) Defendants created, promulgated, and maintained a policy or practice of failing to provide accurate and prompt responses to reasonable requests regarding the existence of evidence under Defendants' possession, custody, or control; and
- (f) in other respects to be proved through discovery and at trial.

217. As a direct result of the deficient policies and practices set forth above, although Defendants Proctor and Pridgen had in their possession evidence that would have proved Sledge's innocence of the crimes for which he was convicted and imprisoned, they failed to provide the evidence to Sledge despite his repeated requests from 1993 to 2012.

218. Because of the misconduct of Defendants Proctor and Pridgen, Sledge could not file a Motion for Appropriate Relief based on new evidence under N.C. Gen. Stat. § 15A-1415(c). Such a motion based on the DNA testing of crime scene evidence or other scientific testing would have been successful, and would have freed Sledge from prison. Defendants'

misconduct thus violated Sledge's rights to due process and to access the courts under the Fourteenth Amendment to the United States Constitution.

219. As a direct result of the unauthorized ministerial actions of Defendants Proctor and Pridgen, Sledge was wrongfully imprisoned for over 21 years, and suffered physical, emotional, and pecuniary damages. Defendants Proctor and Pridgen are thus liable to Plaintiff pursuant to 42 U.S.C. § 1983.

FIFTH CAUSE OF ACTION

(State Law – Obstruction of Justice in 1977 and 1978 – Little, Poole)

220. The allegations in the preceding paragraphs are incorporated by reference.

221. By their conduct in 1977 and 1978 described above, Defendants Little and Poole deliberately prevented, obstructed, impeded, or hindered public or legal justice, i.e., the exoneration of Sledge and the identification of the actual murderer.

222. As a direct and proximate result of obstruction of justice by Defendants Little and Poole in 1977 and 1978, Sledge was wrongfully imprisoned for over 37 years, and suffered physical, emotional, and pecuniary damages.

SIXTH CAUSE OF ACTION

(State Law – Negligence from 1993 to 2013 – Little, Storms, Bunn, Benston, Singletary, Proctor, Pridgen, Batchelor)

223. The allegations in the preceding paragraphs are incorporated by reference.

224. Defendants Little, Storms, Bunn, Benston, Singletary, Proctor, Pridgen and Batchelor had the following duties:

- (a) to disclose exculpatory material to criminal defendants and to ensure such material is disclosed;
- (b) to properly maintain, store, inventory, and safekeep evidence used in criminal prosecutions;
- (c) to accurately respond to requests for evidence held in their possession; and

(d) in other respects to be proved through discovery and at trial.

225. Defendants Little, Storms, Bunn, Benston, Singletary, Proctor, Pridgen and Batchelor were negligent and breached duties owed to Sledge in the following respects:

- (a) Defendants failed to preserve, maintain, inventory, and safekeep evidence;
- (b) Defendants failed to honor reasonable requests that they search for, locate, and produce evidence for DNA and other scientific testing;
- (c) Defendants failed to respond to Judge Gore's June 2003 order to locate and produce evidence in Sledge's case;
- (d) Defendants failed to disclose exculpatory evidence to Sledge or his trial attorney; and
- (e) in other respects to be proved through discovery and at trial.

226. As a direct and proximate result of Defendants' negligence, Sledge was wrongfully imprisoned for over 37 years and suffered physical, emotional, and pecuniary damages.

SEVENTH CAUSE OF ACTION

(State Law – Obstruction of Justice from 1993 to 2013 – Little)

227. The allegations in the preceding paragraphs are incorporated by reference.

228. By his conduct from 1993 to 2013 described above, Defendant Little deliberately prevented, obstructed, impeded, or hindered public or legal justice, i.e., the exoneration of Sledge and the identification of the actual murderer.

229. As a direct and proximate result of the obstruction of justice by Defendant Little from 1993 to 2013, Sledge was wrongfully imprisoned for over 21 years, and suffered physical, emotional, and pecuniary damages.

EIGHTH CAUSE OF ACTION

(North Carolina Constitutional Claim for Failing to Disclose Exculpatory Evidence Before Trial in 1977 and 1978 – Little, Poole)

230. The allegations in the preceding paragraphs are incorporated by reference.

231. In committing the foregoing acts and omissions in 1977 and 1978, Defendants Little and Poole violated Sledge's constitutional rights under the North Carolina Constitution, including but not limited to his rights under Article I, Sections 18, 19, and 21.

232. The misconduct of Defendants Little and Poole was a direct and proximate cause of Sledge's indictment, conviction, and imprisonment. Defendants Little and Poole were acting under color of state law and their acts were undertaken with deliberate and/or reckless indifference to Sledge's constitutional rights.

233. As a direct and proximate result of the unconstitutional acts and omissions of Defendants Little and Poole in 1977 and 1978, Sledge was wrongfully imprisoned for over 37 years, and suffered physical, emotional, and pecuniary damages.

NINTH CAUSE OF ACTION

(North Carolina Constitutional Claim for Failing to Produce Exculpatory Evidence from 1993 to 2013 – Little, Storms, Bunn, Benston, Singletary, Proctor, Pridgen, Batchelor)

234. The allegations in the preceding paragraphs are incorporated by reference.

235. In committing the foregoing acts and omissions from 1993 to 2013, Defendants Little, Storms, Bunn, Benston, Singletary, Proctor and Batchelor violated Sledge's constitutional rights under the North Carolina Constitution, including but not limited to his rights under Article I, Sections 18, 19, and 21.

236. Defendants had in their possession evidence that would have proved Sledge's innocence of the crimes for which he was convicted and wrongfully imprisoned. Sledge and his agents repeatedly requested that he be provided access to the evidence, so that it could be

subjected to DNA and other scientific testing. Defendants, through their deliberate and/or reckless misconduct, and/or due to their adherence to unconstitutional policies, customs and practices, failed to provide Sledge the evidence he requested, preventing Sledge from having access to evidence that would have exonerated him.

237. Because of Defendants' misconduct, which occurred while they were acting under color of state law, Sledge could not file a Motion for Appropriate Relief based on new evidence under N.C. Gen. Stat. § 15A-1415(c). Such a motion based on DNA testing of crime scene evidence would have been successful, and would have freed Sledge from prison.

238. As a direct and proximate result of Defendants' unconstitutional acts and omissions, Sledge was wrongfully imprisoned for over 37 years, and suffered physical, emotional, and pecuniary damages.

TENTH CAUSE OF ACTION
(Liability on Official Bond – Storms, Bunn, Benston)

239. The allegations in the preceding paragraphs are incorporated by reference.

240. Plaintiff is informed and believes that Defendants Storms, Bunn and Benston, as required by statute, have furnished a bond or bonds payable to the State of North Carolina (upon whose relation Plaintiff sues) conditioned upon the faithful exercise of the duties of his office.

241. Plaintiff is informed and believes that Defendant John Doe Corporation was, at all times relevant to this action, the Surety on the official bond of Defendant Storms, Defendant Bunn, and Defendant Benston as Sheriff of Bladen County, North Carolina.

242. Plaintiff has been injured by the neglect, misconduct, and misbehavior of Defendants Storms, Bunn and Benston, each acting in his capacity as Sheriff of Bladen County.

243. Pursuant to N.C. Gen. Stat. § 58-76-5, Defendants and the Surety on their bond are liable to Plaintiff for all acts done by Defendants Storms, Bunn and Benston, or their deputies or employees by virtue of or under color of their office.

ELEVENTH CAUSE OF ACTION
(Liability on Official Bond – Proctor, Pridgen)

244. The allegations in the preceding paragraphs are incorporated by reference.

245. Plaintiff is informed and believes that Defendants Proctor and Pridgen, as required by statute, have furnished a bond or bonds payable to the State of North Carolina (upon whose relation Plaintiff sues) conditioned upon the faithful exercise of the duties of their office.

246. Plaintiff is informed and believes that Defendant Jack Doe Corporation was, at all times relevant to this action, the Surety on the official bond of these Defendants as Clerk of Court of Columbus County, North Carolina.

247. Plaintiff has been injured by the neglect, misconduct, and failure to properly perform ministerial acts of Defendants Proctor and Pridgen, acting in capacity as Clerk of Court of Columbus County.

248. Pursuant to N.C. Gen. Stat. § 58-76-5, Defendants and the Surety on their bond are liable to Plaintiff for all acts done by these Defendants by virtue of or under color of their office.

DAMAGES

249. As a direct and proximate result of Defendants' violation of Sledge's civil and constitutional rights, obstruction of justice, and negligence, Sledge was arrested, deprived of a fair trial, wrongfully convicted, and imprisoned for more than 37 years for crimes he did not commit.

250. As a result of Sledge's wrongful conviction and imprisonment, Sledge sustained physical injuries and sicknesses and other personal injuries, entitling him to recover compensatory damages. Those injuries include but are not limited to:

- (a) inadequate medical care;
- (b) poor nutrition;
- (c) physical pain and suffering;
- (d) severe emotional distress;
- (e) depression;
- (f) humiliation, indignities and embarrassment;
- (g) damage to reputation;
- (h) damage to family relationships;
- (i) loss of employment, wages and benefits;
- (j) diminished earning capacity;
- (k) restrictions on all forms of personal freedom including but not limited to diet, sleep, human contact, educational opportunity, employment, athletic opportunity, physical activity, personal fulfillment, parental responsibilities, family relations, sexual relations, access to media and technology, reading, travel, enjoyment, and expression; and
- (i) such other injuries as may be shown by the evidence.

251. Defendants are jointly and severally liable to Sledge for compensatory and punitive damages resulting from the violation of his civil rights, obstruction of justice, negligence, and wrongful conduct as described herein.

252. Sledge is entitled to recover his reasonable attorneys' fees and litigation expenses from Defendants pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

Based on the foregoing, Plaintiff prays for the following relief:

1. Compensatory damages from Defendants, jointly and severally, in an amount to be determined at trial;
2. Punitive damages from Defendants, jointly and severally, in an amount to be determined at trial;

3. Reasonable attorneys' fees and litigation expenses from Defendants under 42 U.S.C. § 1988;

4. Costs of court and interest as allowed by law;

5. A trial by jury on all contested issues of fact; and

6. Such other and further relief as the Court may deem just and proper.

This the 20th day of August, 2015.

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