THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MARION, THIRD JUDICIAL DISTRICT

FLOYD W. MARSH, JR.,	)	
	)	Case No. ___25CV53322____
Petitioner,	)	
	)	Petition for Compensation for
vs.	)	Wrongful Conviction
	)	Oregon State Laws 2022, Chapter 105
THE STATE OF OREGON,	)	
	)	Claim Not Subject to Arbitration
Respondent.	)	Jury Trial Requested

PEETITION FOR COMPENSATION

I.

INTRODUCTION

This is a petition for compensation for wrongful conviction, brought pursuant to Oregon Laws 2022, Chapter 105.

Floyd W. Marsh, Jr. is innocent and had no knowledge of, nor involvement in the 2011 robbery of the Kachlik residence, nor in the laundering of stolen silver after-the-fact. Mr. Marsh made it well-known from the beginning that his integrity in maintaining his innocence would not allow him to take any plea deal, if offered; so, one wasn't. Since his 2014 indictment for the robbery and money-laundering charges, Marsh has unwaveringly maintained his innocence.

II.

PETITION ROADMAP

The factors that prove Marsh's innocence are briefly listed here in this Section II and expounded upon thereafter in corresponding fashion. They show why Marsh should rightfully be compensated for his wrongful convictions.

A) Forensics exculpate Marsh.

1. Neither the DNA nor the fingerprint collected from the crime-scene match Marsh.
2. There is no physical evidence tying Marsh to the crime scene.

B) ASSAULT & ROBBERY. Newly deduced evidence points to state's cooperative witness, Gerald Matthew Wiese, Jr., as the crime's instigator and primary perpetrator.

1. Newly deduced evidence supports that the one who assaulted victim Zdena Trnkova was left-handed, not right. Wiese is left-handed; Marsh is right-handed.
2. Victim's attacker spoke Spanish; Wiese speaks Spanish; Marsh doesn't.
3. Wiese contradicted the victim's statements.
4. Wiese had specific knowledge about the zip-ties put on victim that contradict what he said elsewhere.
5. The victim, Zdena Trnkova, knew Marsh from numerous face-to-face encounters over the years leading up to the robbery. The robbers wore no disguises, yet Trnkova never identified Marsh as her attacker.
6. It is illogical to assume Marsh asked Wiese to act as his get-away driver, as Wiese had no valid driver's license.

C) MONEY-LAUNDERING. Marsh's actions do not fit those of a statutory money-launderer, but Wiese's do.

D) Law enforcement personnel were biased from the beginning and they failed to investigate properly.

1. Marsh's case was high-profile, which means it was embarrassing to then-Clackamas County Sheriff's Office (CC SO) Craig Roberts, and
2. It was a media opportunity for CC Deputy District Attorney (DDA) Russell Swanson Amos.
3. Investigators refused to interview Marsh.
4. Law enforcement intimidated or threatened exculpatory witnesses.
5. Jail guards created an opportunity for Marsh to escape, hoping to be able to shoot him and potentially kill him.
6. A guard attempted to initiate a physical fight with Marsh without provocation.

E) The state's primary witness, Wiese, was incentivized to blame Marsh for his own crimes, so he committed perjury.

1. Wiese blamed Marsh for his own drugs in all three 2014 proffered interviews, but thereafter recanted them all when he unexpectedly took responsibility for them.

2. The CC DA never shared the terms of all of Wiese's immunity agreements, in violation of *Giglio v. United States (1972).*
3. From proffer to Trial, Wiese's versions of the crime changed, usually in favor of the prosecution. Was his testimony the object of prosecutorial witness-tampering? Wiese made 100+ changes in material testimony, from proffer to Trial. (See **Addendums 1 & 2**) State's witness violated each of the terms of his formal cooperation agreement, including his requirement to testify substantially the same from proffer to Trial, and other sections as well.
4. Wiese was way off in his *pre*-robbery timelines, to the point the DDA had to lead and correct his own witness on the stand about what year the robbery occurred. Wiese was also off in his impossible *post*-robbery timeline. See **Addendum 3.**
5. Wiese contradicted his victim's statements.

F) Prosecutorial Misconduct

1. CC DDA Amos lied to the court on January 5, 2024 about his reasons for dismissing the case.
2. CC DDA Amos withheld exculpatory physical evidence from Marsh's Trial court; he failed to comply with a Motion to Compel order, apparently without sanction.
3. CC DDA Amos is the likeliest source of at least some of the changes in his witness's testimony from proffer to Trial. The evidence supports that he knowingly suborned perjury.
4. CC DDA Amos relinquished his prosecutorial immunity by acting in an investigative role during Marsh's case.
5. CC DDA Amos told the jury numerous "facts" not in evidence during his Opening Statement, wherein he was years off in his narrative.
6. CC DDA Amos told the jury numerous "facts" not in evidence during his Closing Statement, again wherein he was years off in his narrative.
7. Throughout the Trial, CC DDA Amos produced hearsay when he repeatedly broke into mimicry caricatures of various parties to the case. For example, Amos implied first-person word-for-word knowledge of crime-location conversations, allegedly between Marsh and Wiese, which he fabricated as he went along.

G) INEFFECTIVE ASSISTANCE OF COUNSEL.

1. Public defender refused to read Marsh's rebuttal to Discovery prior to the Trial.
2. Public defender allowed a coworker of the CC DA to sit on Marsh's jury by failing at voir dire.
3. Public defender was unfamiliar with Wiese's pre-trial proffers, so he failed to note over 100 material inconsistencies when they appeared in Wiese's Trial testimony. He therefore failed to impeach the State's witness.

H) SUMMARY/PETITION ELEMENTS SATISFIED

1. The evidence supports Marsh's innocence.
2. He satisfies the statutory relief elements.

3. Because of the factors mentioned above, Marsh is on the National Registry of Exonerations.

I) RECANTATIONS & INDICIA OF RELIABILITY

J) STATEMENT OF HARM

K) PRAYER FOR RELIEF

1. Compensation
2. Close

III.

EVIDENCE SUPPORTING INNOCENCE

A) The Oregon State Police's crime laboratory analysis of forensic evidence collected from the crime scene, excludes Marsh from being a contributor.

1) According to Microsoft's Bing, DNA has been called the "gold standard of forensic evidence, due to its ability (as). . . a scientific and objective means of identifying individuals, making it a critical tool in the criminal justice system." In 2023, when the Clackamas County (CC) DDA Russell Swanson Amos applied for a continuance in Marsh's re-trial, he told the judge he would appreciate an extension of time to test the DNA found at the crime-scene against Marsh's DNA, which allegedly had never been done. At that time, CC DDA Amos stated *for the record* that if it came back without matching Marsh, this would be considered "exculpatory." In the end, neither the male DNA found on the zip-ties (used to bind the robbery victim), nor the exceptionally good fingerprint (collected from the hallway mirror) at the crime scene, matched Marsh or any other known person. However, why was this necessary? By the time CC DDA Amos asked for the extension in 2023, Marsh had already been freed from prison and jail pending a new trial. Upon his arrival to prison in January 2018, the prison had collected his DNA as a matter of protocol, allegedly for the purposes of running it against CODIS and/or other state

databases for possible matches, such as against what presumably would have been submitted from the Kachlik robbery crime scene. If there was no match in 2018, CC DDA Amos had to know there could be no match in 2023. If CC DDA Amos was aware of this, then what was his true reason for an extension? Was the 2023 DNA collection warrant for mere show? If so, why?

2) Those with limited knowledge have attempted to claim that Czech coins tie Marsh to the robbery. They do not.

In 2014, after Marsh's initial Chicago arrest, his then-girlfriend (now-wife), Connie Loop, cleaned out his shop in Creswell at Marsh's direction. She sold many of the shop items at a yard sale. After doing so, she received a phone call from a lady in the community, Toshua Mogstad, who had purchased in the yard sale several (mostly empty) cans of paint, from Loop, that originated from Marsh's shop. In one paint can, Mogstad found several Czech coins. She invited Loop to come pick them up, which Loop did. Based upon the circumstances, although *without first-hand observation*, Loop believed the Czech coins had originated from Marsh's shop. This made her suspicious, as, by now, she was aware of the 2011 robbery. She phoned Arnold Kachlik and asked him to identify something she found that "might" be from the robbery, with every intent to return them to Kachlik if they were, but he could neither identify them, nor their distinctive plastic sleeve wrappings, even given hints. Therefore, Loop decided the coins probably belonged to their then-teenage son, Erik Kachlik, whom she shared with the robbery victim, Arnold Kachlik. Erik was not allowed to hang out in Marsh's Creswell shop without supervision, but he routinely broke in and hid personal items there. Loop asked her son if the Czech coins were his. At the time, he denied it, probably because he knew he was not allowed in there alone due his propensity to hide out and smoke pot, and he wanted to avoid getting into

trouble. Years later, however, around 2024, he finally confessed he could easily have been the one to hide Czech coins there. He did, in fact, collect interesting foreign coins throughout his teens, as his father, Arnold Kachlik, will corroborate.

In 2014, Loop had no answers concerning the Czech coins she recovered from Mogstad. However, she volunteered them to CC Sheriff's Office (SO) Detective Eric Lee in a cooperative manner when he visited her home in September 2014 to inform her that Wiese confessed to the 2011 Kachlik robbery. Contrary to police reports, the coins were not seized by force. Loop hoped Lee would have better luck investigating the coins than she previously had. Unfortunately, in the police report that followed (that matches the victims' versions of the story), Lee phoned the Kachlik residence directly upon leaving Loop's home that day, and, similarly not getting any satisfactory description from the victims toward identifying them, Lee described the coins ***to*** Kachlik on the phone, who in turn asked Trnkova, his girlfriend, the robbery victim, whether she "might have had" some Czech coins in the stolen safe. She said maybe. Even at that early point in the investigation, those coins could have been argued as only a very weak tie to the robbery, if any. However, we shall soon see how they could not have originated from the robbery at all.

At Marsh's 2017 Trial, CC DDA Amos showed these same Czech coins to the jury as positive physical proof that tied Marsh to the robbery. However, when CC DDA Amos questioned the victim on the stand, Trnkova specifically testified that *her* coins were all minted between 1918 to 1925. At Trial, CC DDA Amos *never directly asked* Trnkova if the coins he showed her in court were actually hers, but only if they were Czech and if they "looked like" hers. Of course, they were Czech. Perhaps they even had designs on them similar to her older stolen ones, but

no one ever outright asked Trnkova if the coins shown to her at Trial were hers. Had they done so, she would have said "No." In fact, they *could not have been* hers, because hers were old enough to have belonged to her parents, which they once did, while all the Czech coins that originated with Loop were common, modern-era Czech coins for everyday circulation, and of small value. Yet, so sloppily was this point investigated, and so erroneously convinced were the detectives that the coins from Loop *must have been* from the 2011 robbery, that years later, in 2024, when the matter was totally adjudicated, said Detectives returned the coins *not to Loop* from whom they had originated, but instead rerouted them to the robbery victim, Trnkova. Immediately, Trnkova recognized they were not hers. She phoned Loop to come pick up her coins. Once again, as she had attempted to do at Trial, Trnkova explained to Loop that the coins returned to her, that were shown to her at Marsh's Trial, were "too new" to be hers. Loop picked up the common Czech coins from the Kachlik residence as she was invited to do that very same day, because Trnkova vehemently denied them being hers. Hence, the coins shown to the jury cannot tie Marsh - or anyone else - to the 2011 robbery.

In the summer of 2014, Ms. Loop left Detective Lee a voicemail requesting his help to get back heirlooms on behalf of the crime victims, from Wiese's Milwaukie, Oregon apartment. Detective Lee refused to phone Ms. Loop back; he had no further contact with her until he served her a Grand Jury subpoena in September 2014 in Creswell. Detective Lee refused to facilitate the return of any stolen heirlooms in this case – right up until he erroneously rerouted *Ms. Loop's* coins to Trnkova! Evidence that Detective Lee inquired from Marsh, Wiese or any other party as to the whereabouts of stolen items listed in the Property Loss Report on behalf of

the victims is *nowhere* associated with this case. He did not even get their input before giving them someone else's property (Ms. Loop's).

With regard to this Section, other than Trnkova's "1918 to 1925" testimony at Trial in response to Amos's confusing and indirect line of questioning, the jury heard none of this.

B) THE ASSAULT & ROBBERY

1) On Saturday, October 1, 2011, Trnkova was home alone in Wilsonville, Oregon, when she heard a knock at her front door. Looking out, she saw a man walking to her door from a white windowless van parked near the cell tower on the property. She opened the door. According to her Trial testimony, Transcript page 275, lines 1-3, "he pushed me inside, closed the door behind him and used stun gun on me several times." However, CC DDA Amos, *contradicted* her description of this event, in his closing statement. On Transcript page 833, lines 23-25, he told the jury, "We know that Ms. Trnkova… when the door was opened, she was zapped. She immediately fell to the ground." While this depiction may sound similar, there are important distinctions. First, if you approach the front door from the outside, it opens on the right side, swinging inward. Hence, a right-handed person could easily semi-reach around the open crack on the right side of the door, to stun someone facing them, which would result in wounds on the victim's front left side. (A person intent upon attack is assumed to be predisposed to reach into a doorway to attack someone with their dominant hand.) In contrast to a right-handed attacker, a left-handed attacker would need to go completely inside, perhaps shut the door behind them, and then use their left primary hand to stun the person they are facing, just as Trnkova described. Because they are left-handed, if they hit the person facing straight on like Trnkova was, the victim would be bruised mostly on her *right* side, again, as was the case with

Trnkova. (See crime photos.) This lends to the conclusion that Trnkova's attacker is left-handed. To add to this evidence of a left-handed attacker, Trnkova testified that when she was in the closet, her assailant opened the closet door to stun her again, because she was "being too noisy." The closet door opened on the left from the outside, swinging out into the hallway when opened, so this time the attacker *was* able to reach around the door with his dominant left hand, while hiding his body unseen behind the door, precisely as Trnkova testified. Wiese is left-handed; Marsh is right-handed. Wiese is the most logical attacker, even though in every one of Wiese's versions of events, he blamed Marsh for being Trnkova's assailant.

Trnkova said in every police report and at Trial, that the only person with whom she conversed during the robbery was her attacker, even though she was aware that (at least) two men were inside her home. Wiese admitted conversing with Trnkova during the robbery; therefore, he is her attacker. In fact, their conversations match up very well when versions are compared side by side - other than that Wiese claimed he tried to verbally comfort Trnkova throughout her ordeal, whereas Trnkova states he scolded her and re-accessed the closet by removing the dining room chair to stun her again, before refitting the chair back under the closet door handle to keep her from escaping. Trnkova is upset that she did not get to explain to the jury how her attacker verbally taunted her before stunning her again.

Marsh's sentencing occurred in December 2017. The crime victims were conspicuously absent. CC DDA Amos falsely told the court it was because they were tired of the entire ordeal. However, Trnkova gave Connie Loop Marsh a different reason. Trnkova said "The trial was not fair." She said this because she saw the Trial transcript, so she knew that CC DDA Amos told the jury how "compassionate" Wiese was during the robbery, while Trnkova was silenced on the

stand and not allowed to repeat the words Wiese used to taunt her before he stunned her again because she was being too noisy in the closet because she could not breathe.

2) Further, Trnkova told police responders that the two robbers spoke Spanish to one another. Wiese speaks Spanish and is well-immersed in that culture, whereas Marsh does not speak more than five Spanish words in total sum. Retired CC SO Sergeant Dan Kraus can verify this; he used to act as a Spanish interpreter for Marsh when they served together in law enforcement.

3) Now, let us continue to compare Wiese's version of events with that of his victim, Trnkova. Throughout the Trial as mentioned, CC DDA Amos made substantial efforts to show Wiese, his primary witness, as a "compassionate," tidy thief, while Marsh was vengeful and desperate. Wiese even made up the story that, just before he and his accomplice left, he had removed the chair blocking the exit from the closet so that Trnkova could escape, no doubt to look good -- initially to cops and later to the courtroom. CC DDA Amos concurred, *repeatedly* calling Wiese "compassionate" to the jury. In reality, Trnkova had to use great bodily force to break her expensive dining room chair to escape the closet. Trnkova testified to this fact. Every police report mentioned the broken chair. Additionally, there is a photo of the broken chair in Discovery. The victims' homeowner insurance company (State Farm) verified the broken chair and compensated the victims $1,200.00 for said chair. There is a photo herewith of this broken chair at the end of **Addendum 2**. There is absolutely no evidence to substantiate CC DDA Amos's false claims that Wiese made any attempt to help his victim escape upon his departure by removing the chair from being jammed under the outside doorhandle of the closet. The

evidence supports Trnkova's statements over Wiese's. (Perhaps this is why the jury declined to convict Marsh of any assault or kidnapping charges.)

4) In one of Wiese's proffered interviews, he claimed that while Trnkova was locked in the closet, she had somehow gotten out of her zip-ties, claiming, "They weren't tight." First of all, in *every* version of his robbery stories, Wiese claimed to be waiting in the van while Marsh attacked Trnkova, so how would Wiese know the zip-ties were not tight, unless he were the person who put them on her? Secondly, would Wiese really have us to believe that Marsh, who occasionally used flex-cuffs so successfully during his lengthy law enforcement career that no big bad guys ever escaped in all those years, but now at this robbery Marsh suddenly hand-cuffs the small elderly victim's zip-ties so carelessly or ineptly, that *she* escapes? Is that logical?

5) **Marsh does not match the victim's description of her attacker.** Trnkova told police that the man who knocked at her door on the morning of the robbery was between mid-20's to early 30's, and wore no disguise. (See the suspect's description in initial crime report.) At the time of the robbery, Marsh was 54 and Wiese was 43. However, the owner of the get-away van, Sheldon Hasbrouch, fits Trnkova's age and build description, and he is the most likely candidate as the robbery driver that day. Investigators failed to question him during their "investigations." Not one report in Marsh's Discovery mentions any attempt to contact or question him. And when Marsh's investigators much-later cornered Hasbrouch in Vancouver in 2023, Hasbrouch said he was unwilling to talk because he did "not want to get in trouble." Hasbrouch's reluctance to be interviewed is suggestive of his potential involvement in the crime. It is not difficult to deduce that Trnkova saw the young Hasbrouch on the sidewalk approaching her door, but that as she peered out her front window, Wiese was already in her recessed front door's alcove,

having knocked on the door, waiting to attack her. It is not possible to see the recessed front door from the window. At any rate, there in no way that anyone who knew Marsh at the age of 54 in 2011, would mistake him for half of that age. Further, Trnkova said her attacker was "big, not fat." In October 2011, Marsh weighed 260 lbs. Photos of him from that time, *can* rather be described as rotund or "fat." Wiese, however, was indeed "big, not fat."

Further, in the initial police reports, Trnkova said the intruders wore only construction vests as disguises, but they did not conceal their faces. She even described the side facial hair on one of the robbers. By the time of the robbery in 2011, Marsh and Trnkova, whose partners (Loop and Kachlik) previously had a child together, Erik Kachlik, in 1996, had coparented for years, attending school events together, visitation exchanges and so on. So, if Marsh attacked Trnkova without a disguise, Trnkova would surely have recognized him. And, she would have recognized his voice, which differs significantly from Wiese's.

Moreover, Google shows visibility was unobstructed the day the robbery took place, on Saturday, October 1, 2011, with only high clouds, so if it were Marsh walking up Trnkova's sidewalk or stepping into her house, she could and would have easily recognized him.

Wiese's initial proffered interviews agree with the victim's recount that there were *no* facial disguises worn. See police reports. However, at Trial, Wiese suddenly and falsely claimed he and Marsh indeed wore bandanas to avoid Trnkova recognizing him. (We wonder who helped Wiese alter his testimony on this point favorable to the prosecution.) Regardless, this change in testimony reinforces the fact that *everyone* was in agreement about one thing: Had *no* disguises been worn, then Trnkova *would* have easily recognized Marsh. They had known one

another for years by 2011, and continued having face-to-face contact during child visitation exchanges long after the robbery as well.

Incredulously, the CC DA specifically kept Trnkova from ever seeing Wiese or hearing an audio sample of his voice. For example, Loop observed that they strategically removed her from the courthouse lobby in September 2014 at Grand Jury proceedings just prior to Wiese being brought in, because if she had identified him as her attacker, it would have ruined the DA's entire crime narrative that blamed Marsh for everything that Wiese did. Neither was she ever shown any line-up of suspects – Wiese, or otherwise - to confirm what law enforcement deputies claimed they thought they knew.

6) In his proffered interviews, Wiese claimed Marsh wanted Wiese to accompany him in the robbery to be the "get-away driver." Marsh would not have arranged for Wiese to drive during the robbery as Wiese claimed, for Marsh, having been a deputy, would know that if they were stopped by police for *any* reason after the crime, a suspended driver (Wiese) would be subjected to having the vehicle seized and towed with a required inventory search of the vehicle. So, if Marsh orchestrated the robbery, and he is as brilliant a criminal master-mind as CC Detective Eric Lee often claims, then why would Marsh go out of his way to choose someone *without* a valid driver's license? How brilliant would it be to hire an unlicensed driver to drive a borrowed out-of-state van for a serious crime? In the case they were pulled over, that would go so well?

Simply, this investigation did not follow normal police practices. It seems as unusual that Trnkova was shown no suspect photo line-up, as it was that there was no attempt to interview the accused Marsh, ever, even though he requested such. These are among the long list of

basic investigative tasks that law enforcement *should* have done for Marsh's case, but failed to do, due to their strong political bias against Marsh, their former colleague.

C) MONEY LAUNDERING

ORS 164.172 (1) states that "a person commits the crime of engaging in a financial transaction in property derived from unlawful activity if the person *knowingly* engages in or attempts to engage in a financial transaction in property that: (a) constitutes, or is derived from the proceeds of unlawful activity; (b) is of a value greater than $10,000 **and** (c) The person *knows* is derived from or represents the proceeds of some form . . . of unlawful activity." This does not fit with this case.

It is true that nearly one month after the October 1, 2011 robbery, Marsh sold silver at Tacoma Coin, Stamp & Jewelry. However, he had no idea it was the proceeds of any crime. He was there at the request of Wiese, who told him his Hispanic girlfriend by the first name of "Olympia," was going through a divorce and needed to turn her silver investment into cash without her soon-to-be-ex or his lawyers finding out. The story Marsh heard was that she had asked Wiese to find someone who would be willing to purchase the silver from her for less than its spot price, who could in turn sell it for full spot price at a legitimate coin outlet, and make an immediate profit of a few hundred dollars. (Historical spot price is still available via an internet search.) Marsh did not have that much money on hand, so he took a short-term loan from a friend to be able to take advantage of this opportunity.

Marsh made the drive to Tacoma and met Wiese and "Olympia" at a fast-food burger restaurant in the parking lot of Tacoma Coin, Stamp & Jewelry. He bought the silver from

Olympia and obtained a receipt for the cash amount he paid, which was $8,000.00. He then went across the parking lot to Tacoma Coin, Stamp & Jewelry to sell it for spot price, which was approximately $35.536 that day. We know this was the spot price, because it is listed on the receipt from the coin store. See **Addendum 2**. We also know he sold 250 Silver Eagle one-ounce coins, because that too is shown on the receipt, so he should have received a check in the amount of ($35.536 X 250), $8,884.00, which would have resulted in a profit of $884.00, which was enough to cover his travel and then some. However, the coin shop employee made a calculation error and instead paid Marsh $9,884.00 – or precisely $1,000.00 too much. Marsh noticed the error in his favor immediately and pointed it out to the clerk, who argued with him that it was correct. Marsh left the coin store with the check. During his visit, he made no attempt to hide his face from security cameras, offer false identification, alter his signature, or in any way attempt to conceal his true identity as a thief or money-launderer might do. In short, his behavior was not that of a man who suspected or knew the silver was the proceeds of a robbery. The coin shop wrote a check made out to Marsh, for the silver in the amount of $9,884.00. Because it is entirely traceable, and not in the form of cash, the transaction was not subject to IRS reporting laws at all. This means, even if it had been a check in the amount of $9,884,000.00, it *still* would not have been subject to reporting laws, even though at Marsh's trial, CC DDA Amos made a big deal about Marsh attempting not to cross the $10,000 mark in his silver sale. It appears the prosecutor simply did not understand reporting principles. Unfortunately, his lack of understanding was absorbed by Marsh's jury. Marsh was convicted of money-laundering and sentenced to an additional 12 months for a crime that never occurred, according to the facts.

When Marsh left the coin store, he went straight to the bank in which the coin store's check was written off of, Sterling Savings Bank, about five miles away. His intent was to cash it, because he knew if he deposited it in Oregon, the out-of-state check for that sum would be subject to a lengthy hold. Rather, Marsh needed the money right away to repay his friend's short-term loan as promised, as well as to have the leftover funds to invest in his current construction jobs. He asked the bank to cash the check. Not surprisingly, the bank did not have enough cash on hand to meet his request. They offered to open an account for him, which he did not need in Tacoma. They then suggested Marsh trade the commercial check for a cashier's check, on which there would be a much shorter hold, if any. He agreed to trade the commercial check for a cashier's one that would represent "collected" (readily negotiable) funds. But first, he once again attempted to straighten out the math error made by the coin shop. The bank teller looked at Marsh's silver receipt and confirmed the math error. After conversing with her supervisor about the matter, the bank teller phoned the coin shop and explained the error. Again, they told her it was correct and instructed her to negotiate the check for Marsh, so she did. Question: If Marsh were a thief, why would he go to such lengths to try to correct a $1,000.00 error in his favor?

It is interesting to note that in neither proffered interview, nor at Marsh's trial, did Wiese mention the stop at Sterling Savings Bank whatsoever. Clearly, this is because he was not there. Because Wiese, in fact, did *not* ride with Marsh to Tacoma as he claimed, but instead *met* Marsh in Tacoma by riding there with Olympia, Wiese could not know about Marsh's stop at the bank at all. This could be why during proffered interviews (while *knowing* that Marsh did not then have a bank account), Wiese *guessed* that the cashier's check *had* to be made out to Marsh's ex-

wife, Julie Marsh, but then at Marsh's 2017 Trial, he corrected this to say that the check was made out to Marsh and that Marsh endorsed the check to deposit it in Julie Marsh's Case Bank account, which matched the hard evidence. We would like to know who tampered with his testimony on this point as well, also favorable to the prosecution, giving jurors the false impression that Wiese was present and observed the issuance of the cashier's check, even though he did not overtly mention the trip to the bank with Marsh anywhere.

Throughout Marsh's 2017 Trial, CC DDA Amos, went out of his way to explain that Marsh got less for the silver than it was worth. In reality, silver is always worth spot price, and – as has been shown – Marsh *got* spot price -- plus $1,000.00! However, there are numerous places in the Trial transcripts where CC DDA Amos refers to Marsh "pawning" the silver, and for less than it was worth. In fact, in <u>every</u> instance when CC DDA Amos mentioned the name of the coin shop at Trial, he changed the name to an erroneous, "Coin & *Pawn.*" This was no doubt designed to unethically drive home his claim that Marsh dumped the silver for less than it was worth as happens in typical pawn shop transactions, although we remain unsure what point he was trying to make on this to the jury, other than perhaps the public has some loose association of pawn shops with criminal activity. Or perhaps he was trying to inflate the actual value of the silver to meet the statutory conditions of money laundering. Either way, it was inaccurate and misleading.

Also, CC DDA Amos definitely did not seem to understand that since Marsh made absolutely no attempt to conceal his transaction in any way, it does not constitute money-laundering. Did Marsh use false identification? No. Did he send someone else in to conduct the sale? No. Did he steer clear of the coin shop or bank's security cameras? No. Did he disguise

himself? No. Did he provide his own identification and cell phone number so he could be identified if needed? Yes, he did.

However, this this was not a *cash* transaction *at all*. Hence, the system worked as designed, wherein the entire chain of negotiable financial instruments, together with supporting documents such as the coin shop receipt, were easily available to investigators. Had Marsh desired instead to hide the transactions, due to his specialization in financial crimes while a detective at CC SO, he would certainly have known how to avoid detection, and he would have taken those measures. Instead, CC Detective Lee would have us believe that Marsh's brilliant criminal master-mind left no trace of evidence at the actual robbery scene, but thereafter left an I-5 -sized trail of financial breadcrumbs to Tacoma with absolutely no mystery attached to them from bank to bank. As you can see, Marsh's behaviors in conjunction to the sale of silver did not constitute those of a person having intent to mislead or conceal.

ORS 164.172 (1) (c) further mentions that a person must *know* the proceeds from the transaction were obtained through criminal activity. Marsh could not have known that. The crime victims can verify that Marsh did not find out about the robbery until over two months after it occurred, and about six weeks after Marsh had purchased the silver from Olympia in Tacoma. In fact, Marsh finally found out about the Kachlik robbery in a round-about way. His ex-wife, Julie Marsh, worked with one of Kachlik's neighbors. Julie found out about the robbery from her co-worker who had observed the police activity at the Kachlik residence on October 1, 2011. Julie asked Marsh about it; Marsh asked Loop. This occurred in December 2011. Loop phoned Kachlik, who finally admitted he had been robbed. Kachlik said he did not tell Loop about the robbery at first, because – especially after that scary event – he wished to stay much

more private about his life, and he did not know whom to trust. Also, Kachlik said he saw no need to tell Loop about the crime, since he had convinced himself that Loop had nothing to do with it. Perhaps, had Loop or Marsh known about the silver robbery, and soon thereafter noticed the emerging drug lord, Wiese, suddenly became associated with a large amount of silver, they would have been suspicious, but as it was, the information was not available at the time of Marsh's October 2011 coin shop transaction. Hence, there was no way Marsh could have known he was doing anything other than helping a friend of a friend going through a bad life phase.

This said, there is still no way for anyone to know for sure whether the Silver Eagles Marsh bought from Wiese's girlfriend and sold that day were from the recent robbery. This is because investigators who initially investigated the robbery did not even minimally note the stolen coins' year(s) of mint, which would be the *only* way to distinguish one Silver Eagle from another. In other words, there exists no way to prove, even now, that the coins Marsh sold at Tacoma Coin, Stamp & Jewelry, did *not* belong to Olympia.

D) There were many reasons for, and manifestations of, bias against Marsh inside of Clackamas County (CC). Investigative integrity lacked throughout, as detectives failed at their most basic responsibilities.

1) Because Marsh retired from a 29-year law-enforcement career, his February 2014 arrest in Kane County, Illinois for marijuana charges embarrassed his former boss, CC Sheriff Craig Roberts, who immediately, and forever thereafter, sought to politically distance himself from Marsh, his retired employee. Even though all of Marsh's 2014 Illinois charges were eventually dropped after Kane County's Detective Hoffman, a K-9 handler, came clean in court in 2016 that

he had lied about the probable cause (the K-9 “hit”) that brought about Marsh’s arrest, the CC Sheriff’s Office (SO) continued to act toward Marsh’s case with strong political bias.

2) The news-worthiness of the Marsh case offered CC DDA Russell Swanson Amos the perfect opportunity for self-aggrandizement. Just as in the *State v. Francis Paul Weaver (2014)* murder case, CC DDA Amos had the ear of the media. Unfortunately for him, Oregon’s Supreme Court ruled that the plea offer CC DDA Amos made in the Weaver case was tantamount to witness-tampering, and they reversed his conviction in 2020, just as Marsh’s also very public conviction was likewise soon to be vacated.

3) Here is another example of the bias Marsh encountered in Clackamas County. In 2016, Marsh was extradited from Illinois to Clackamas County (CC), Oregon to face the charges initiated by Wiese’s 2014 “confession.” From his jail cell there in 2016, Marsh begged through formal channels to be interviewed by CC investigators. He wanted to help them solve the crime of what truly happened. Although the response he got was as close as he would ever come to being questioned by authorities about the crime, two Sergeants arrived merely to tell Marsh it was inappropriate for him to comment on the case without the presence of his attorney. As a deputy himself for CC SO for 25 years, retiring in 2007, Floyd had worked in the past with both of the two CC SO sergeants who visited him in jail in 2016. One of them, Sergeant Doug Burgess, cited Marsh’s past unfavorable review of his literacy and work performance as a reason he would be unwilling to help Marsh now. He said to Marsh, “Do you remember what you said to me? You asked me if I could read or write. Why should I help you now?” (We have an audio recording of this very discussion in Discovery.) Other than briefly mentioned above, Marsh was never interviewed or interrogated by law enforcement. It seemed from the beginning that his

prior colleagues' sole mission was – not to find the truth but – merely to build a strong case against him, repudiating standard investigative practices.

4) When Marsh's then-girlfriend, now-wife, Connie Loop, offered to provide information against Wiese, the State's primary informant, she was threatened on more than one occasion by CC SO Detective Eric Lee that she "better not know anything" or she "would be in trouble." The message was clear: do not assist Marsh or bring forth any facts that would contradict CC SO's tunnel-vision narrative. Later, when Marsh's pre-trial investigators spoke with Rose Cooley, Marsh's bookkeeper at his Silvergate Construction company, she said she had been "warned" by law enforcement "not to get involved." Therefore, she became unavailable to speak to Marsh's defense team to corroborate his testimony about the strength of his finances, although the prosecution made a big deal that Marsh's motivation to commit the robbery was financially based. In fact, no investigation was done at all by anyone into Marsh's finances at any point during this case, which is also a deviation from standard practice in a case such as Marsh's. Further, yet a *third* person told one of Marsh's investigators that he did not wish to talk because he too did not want to "get in trouble." This person is Sheldon Hasbrouch, undisputed owner of the get-away van. Was this due to his involvement in the crime, or did CC SO Detective Lee threaten him as well?

Law enforcement failed to follow up on any person or detail that did not directly support Marsh's guilt. In another example, the reason they have record of only *one* silver sale (Marsh's) is because they refused to look for any silver transactions done in the name of Wiese, Olympia or anyone else, because they wanted Wiese's narrative to prevail, that Wiese laundered nothing. And when they looked for nothing, that is what they found.

During Wiese's proffer, he provided information about a silver sale he claimed he made in Vancouver, Washington. There is no additional information about Detectives following up on this transaction, which is another indicator that detectives were interested in pursuing only Marsh.

To back up this conclusion, very early in the robbery investigation, Kachlik alleged Marsh (or one other man) could have been the one who robbed him. However, his allegation was based merely on a historical personality conflict. Therefore, investigators did not take the allegation seriously; they knew Marsh, and they knew his whereabouts, but they did not pursue the allegation as viable – at least, not until he was wrongfully arrested in Chicago three years later. If there had been any merit to Marsh's involvement, it should have been investigated years before Wiese attempted to capitalize on the situation.

5) When Marsh was extradited from Kane County, Illinois to Oregon in May 2016, he had a broken wrist from a fall he experienced while incarcerated in the Kane County jail. As a result, shortly after his extradition, he was transported from the Clackamas County Jail to a sports medicine clinic adjacent to the Willamette Falls Hospital in Oregon City. In preparation to be transported, Marsh was taken into a cell, where he was restrained by Corrections Officers. These officers attached Marsh's left wrist to his belly-chain with a set of normal handcuffs. However, Marsh's right wrist was broken. This break was the reason for the medical transport. His right wrist was clad in a soft cast, so that normal hand-cuffs could not be used. Hence, officers used flex-cuffs to secure his right wrist to the right arm of his wheelchair to restrain his movements. Knowing his wrist was broken, jail staff nonetheless cinched the flex-cuff so tightly that Marsh protested that the flex-cuff was too tight, causing intense pain. In response to

Marsh's objection about the tightness of the flex-cuff hurting him, the Corrections Officer's response was to brace himself against Marsh body and cinch the flex-cuff *even tighter*. (Aside – Marsh filed a grievance with the jail command staff, and got the usual response that the camera's didn't work or the cameras didn't show details to support Marsh's claims – something that became a common theme when Marsh complained about jail staff mistreating him). In preparation for this transport, officers also applied leg irons, even though Marsh was wheel-chair bound from an unrelated accident in years prior. Marsh could walk without assistance, but with difficulty. At the sports medicine clinic, nursing staff became aware of the pain Marsh was forced to endure and ordered the wrist restraint to be removed. Marsh recalls the apparent distaste the nurse seemed to project at the corrections officers for their behavior.

The officers not only complied with the nurse's request to remove the flex-cuff, but oddly, and with no regard to standard operating practices, they also removed *all* of Marsh's restraints, and then left him alone and unguarded in an exam room. Additionally, they left their vehicle keys sitting next to Marsh. There were only two unlocked public doors between Marsh and the patrol car waiting outside. Marsh strongly believes to this day that this scenario was intentionally created to bait him into an escape attempt, which would probably have resulted in his death. Why else would deputies leave their car keys next to him, remove *all* of his restraints, and altogether leave the room -- unless they were looking for a way to justifiably shoot Marsh?

6) On another occasion, in the medical area of the CC jail, one guard nick-named "Gil," so intensely attempted to provoke a physical altercation with Marsh, that Marsh was in fear for his safety through no fault of his own, prompting him to call out for help from another guard to stop the situation, which she did. This action on the part of "Gil" prompted Marsh to file a

grievance outlining "Gil's" actions, to which no action was taken due to the cameras chronically not working, etc.

These incidents clearly convey the bias and animosity of CC officers toward Marsh and his case. A fair and objective investigation simply did not happen.

E) The State's Witness is unreliable.

1) All parties have readily agreed that had Wiese not proffered his deal to testify against Marsh, there would have been no charges pressed against Marsh, no Trial, no conviction. Wiese's testimony was paramount to Marsh's conviction. **As a result, any undermining of Wiese's credibility should be interpreted to validate Marsh's innocence now.**

The 2011 robbery at the Wilsonville residence owned by Arnold Kachlik, had no leads until Marsh's former friend and construction employee, "Gerry" Wiese, confessed in 2014 to the CC SO that he had been involved in the Kachlik robbery. Wiese did so to obtain leniency for drug charges he was facing in connection to large amounts of heroin, meth, cocaine, etc. in his possession upon his arrest in February 2014. Wiese successfully (at first) blamed *all* his crimes on Marsh. CC law enforcement was more than happy to wrap up the stale robbery case, as well as further distance themselves from Marsh in the media and public eye by charging Marsh for the 2011 robbery. Hence, they heavily incentivized Wiese for his testimony against Marsh.

2) Now, there is record of Wiese's proffered interview concerning mitigation of his drug-charges then to-date. However, the CC DA has never provided any information concerning the immunity Wiese was granted for his part in the robbery, assault, and subsequent money-laundering activities. Neither was Wiese required to pay restitution to the Kachlik family. This is a violation of Marsh's rights based upon *Giglio v. United States (1972).* Marsh deserves to know.

The victims deserve to know. How did Wiese get immunity for the robbery and money-laundering? Where is the written Agreement? Why was Marsh and his jury never privy to this information? In a rebuttal to a bar complaint some years later, CC DDA Amos admitted he had met with Wiese pre-trial to go over his testimony and ensure it was truthful. This information should have been shared with Marsh's defense team prior to his Trial. It wasn't.

3) From proffer to Trial, Wiese's versions of the crime changed on over 100 key points, usually in favor of the prosecution. Was his testimony the result of prosecutorial witness-tampering?

Even today, there is no reconciling these contradictions. For example, in one version Wiese drove the get-away van; in another, Marsh did. In one version, they did not wear disguises, but in the next version, they did. In one version, Wiese picked up the get-away van the morning of the robbery; in another version, it was the night before. These are only a *tiny* sampling of his testimonial inconsistencies. Please see Petition **Addendums 1 and 2**.

Wiese formally agreed to testify substantially the same at Marsh's Trial as he had in earlier proffered interviews. But he did not. Further, when Grand Jury notes were subpoenaed in 2022 by Marsh's new defense team, they provided yet *more* versions of Wiese's ever-changing crime narratives. See **Addendum 1.**

4) Add to this, that Wiese's version of the post-robbery timeline was impossible to drive in the time he claimed. Please see **Addendum 3**. Furthermore, Wiese's recounts at Trial of events that occurred while he worked for or with Marsh, was several years off - if you believe hard facts found in employment, commercial leasing, banking, CCB or building permit records. Wiese's narrative concerning Marsh's motivations could not have occurred in the three years leading up

to the October 2011 robbery, because Marsh shut down his construction company, Silvergate Construction, in October 2008, precisely when the housing market crashed and Wiese quit working for Marsh in order to begin his new career as a drug lord, which was precisely three years before the October 2011 robbery. As of October 2008, the Silvergate Construction bank account closed, its office lease at 615 High Street, Oregon City terminated -- and all employees, including Wiese, were laid off, because Wiese was not showing up to work anyway, and without him, Marsh had no way to communicate with the majority of his employees, who spoke only Spanish. Final employment records show Wiese quit working for Marsh's Silvergate Construction in August, 2008, over three years prior to the robbery in question.

5) One thing is certain. Wiese and Trnkova share a similar memory of robbery related events – Wiese as the perpetrator; Trnkova as his victim. Their accounts, when compared, match extremely well, especially considering the length of time that had passed between when Trnkova gave her initial crime-report account, to when Wiese gave his account over two years later. Obviously, it was Wiese, not Marsh who interacted with Trnkova, and who shocked her with the stun gun repeatedly.

F) This case exemplifies prosecutorial misconduct.

1) In 2022, Marsh's 2017 convictions were vacated and remanded for a new trial based upon his non-unanimous jury verdict ruled improper by the Supreme Court of the United States in *Ramos v. Louisiana (2020)*. Marsh bailed out of custody in April 2022 while awaiting a new trial. However, in 2023, CC DDA Amos moved for a continuance to test the DNA from the crime scene against Marsh, which subsequently excluded Marsh, as mentioned. Next, CC DDA Amos falsely told the court he could not locate Wiese to testify, and he had issued a material witness

warrant for Wiese. It was later determined that CC DA Senior Investigator Krumenacker specifically told Wiese on the phone not to turn himself in as Wiese offered to do, but rather Wiese was advised to sit tight, which he did. See **Addendum 4**. Notably, Wiese had had the same address, job and phone number for three years by then, which was known to his parole officer. He was not difficult to locate at all. On January 5, 2024, all charges against Marsh were dismissed, based upon a false claim of CC DDA Amos's inability to locate Wiese. In other words, CC DDA Amos knowingly misled the court as to his reasoning for dismissal. His deliberate misrepresentation to the court for his reason for dismissal is very significant to Marsh's claims of innocence herewith. By falsely claiming that Wiese was unavailable for a new trial, CC DDA Amos effectively suppressed exculpatory and impeachment evidence, that most certainly would have come out during Wiese's testimony or cross-examination, now that Marsh had acquired *qualified* legal counsel. Clearly, CC DDA Amos lied to the court about Wiese's whereabouts to conceal the fact that he *could not have* retried the same case against Marsh, due to the risk that Wiese's prior perjured testimony would have been publicly revealed, for it would not have been possible for Wiese to respond to any material questions without having to impossibly explain his prior inconsistent statements.

The fact that Amos took unethical steps to avoid exposing his witness, Wiese's perjury, should absolutely be interpreted as reinforcing the unreliability of Marsh's original 2017 conviction. Since the State's case against Marsh was built upon false evidence, he can correctly be construed as innocent of the crimes for which he spent several years wrongfully imprisoned.

2) Because Wiese admittedly lied (about the drugs) in every proffer leading up to Marsh's 2017 Trial, Marsh's defense wasted a considerable amount of its resources prepping to defend

against defamation arising from drug accusations, which ultimately were spontaneously recanted by Wiese on the first day of Marsh's trial. Specifically, Marsh's defense team requested the CC DA share the video surveillance tape from the Public Storage facility on McLoughlin Boulevard in Milwaukie, Oregon – a unit Marsh opened just prior to his initial arrest in 2014. This recording would have shown early on that Marsh never reentered the storage facility's premises after the day he rented it; therefore, the drugs that showed up in there afterward could not be his. We already know that Wiese retrieved and was arrested in possession of these drugs, and that he ultimately admitted they were his. The surveillance video, if acquired, would probably have shown who had actually brought that cooler of drugs *into* the unit as well, although we can deduce it was Wiese, who confessed. Yet, CC DDA Amos did not comply with the Motion to Compel the production of the video at any time. Instead, he told the court that so much was coming in on the case that he could not possibly keep track of it all. In reality, Public Storage management had complied with the subpoena; however, the video was likely logged into a different case file, perhaps that of Wiese's drug charges, but we can never know for sure where they hid it, for they have failed to produce it to this day. Had the recording been made available for Marsh's defense early on, it would have proven the extent of Wiese's propensity to blame Marsh for his own illegal activities. As it was, Wiese's later recantations at Trial about those drugs should have led law enforcement and the DA to conclude that all of Wiese's previous proffers, including his robbery one, were tainted, for in them all he still blamed Marsh for his drugs. Sadly, it did not. Marsh's sentencing judge incredibly continued to scold Marsh for drug activities, even though 2014 search warrants proved these were non-existent, and in light of the fact that Wiese had finally taken responsibility for anything and everything known to be

drug-related. To this day, Marsh maintains that the security video would have been beneficial if CC DDA Amos would have complied with the court's Order to Compel evidence in the State's possession.

Importantly, the prosecutor's disobedience of a direct court order to compel the Public Storage security recording impeded Marsh's defense and then-ability to prove his innocence at his Trial, leading to convictions void of integrity, while CC DDA Amos violated the legal principles conferred by *Brady v. Maryland (1963)*.

Here is another example of withheld exculpatory evidence. Marsh was finally allowed to visit the property room for the first time ever in preparation for his re-trial, in 2022. At that time, he located a check by a local company made out to himself for payment of construction services, for over $5,000 dated about two days before the robbery. This check proves that Marsh was not destitute at the time of the Kachlik robbery, and Marsh should have been granted access to this check for evidence at his 2017 Trial.

3) CC DDA Amos, being present at both proffer, Grand Jury and Trial, had to at least be *aware* of Wiese's prior inconsistent statements. He had a professionally mandated duty to make them known to the court. Despite this, rather than confront Wiese about the contradictions, he intentionally concealed them by failing to notify the court or the defense about them, and he misled the jury about Wiese's honesty and transparency. Additionally, because so many of Wiese's proffered statements changed from proffer to Trial in favor of the prosecution, such as to align his story more with physical evidence, CC DDA Amos is the most likely source of these material changes in testimony. In fact, CC DDA Amos admitted (in a bar complaint response) to having at least one undocumented (not in Discovery) meeting with Wiese prior to Trial, after

which Wiese's testimony changed. This can be interpreted as witness-tampering, a Class C Felony in Oregon.

4) CC DDA Amos should not be construed as being above the law. The fact that CC DDA Amos was present at Wiese's proffers and Grand Jury proceedings, as well as having at least one secret meeting with Wiese in the days or weeks leading to Marsh's trial, proves his participation in the investigation segment of the case, and should be construed as alleviating CC DDA Amos of his absolute prosecutorial immunity. (*Buckley v. Fitzsimmons*, 1993)

5) Finally, the prosecutor CC DDA Amos was blatantly and embarrassingly unfamiliar with the facts concerning the case -- and its parties and timelines. For example, in his **Opening Statement**, CC DDA Amos was many years off in citing various "facts" found nowhere else – not mentioned during the investigation, not in evidence, nor Discovery, nor testimony; nowhere. In doing so, he gave the jury inaccurate information regarding:

- Which year Trnkova immigrated to the United States;
- The marital status of Arnold Kachlik and Zdena Trnkova, the robbery victims;
- Which year Marsh met Wiese;
- The ages of Marsh and Wiese when they first met, along with their age difference;
- Which decade Marsh and Loop entered into a romantic relationship;
- Where Marsh and Loop were living when they began their romantic relationship. For example, CC DDA Amos had Marsh and Loop having "an affair" in Creswell, Oregon in 2003, which was six years before their home there received its occupancy permit. (Hint: They did not have "an affair" in an empty field prior to the existence of the subdivision. In fact, they did not begin dating at all until 2004.)

- The year Arnold Kachlik divorced his first wife, Gail Kachlik;
- Which year Marsh began doing handyman work in anticipation of retiring from the CC SO;
- When Marsh closed his commercial construction office, leased in Oregon City;
- Which year Wiese began working for Marsh's Silvergate Construction company;
- The business relationship between Wiese and Marsh;
- That profit-sharing or retirement benefits were offered by Silvergate Construction. (They were not. Marsh's company never offered 401K plans);
- That Wiese "sold" his dojo rather than he just abandoned it as an unprofitable hobby;
- That Loop could have embezzled money between October 2008 to October 2011, when Silvergate Construction actually had no bank account at all during the years leading up to the robbery;
- That Loop ever embezzled any money from Silvergate Construction in any form, especially in light of the fact that investigators blatantly ignored all Silvergate's clearly labeled, boxed, archived financials when conducting 2014 search warrants in Creswell;
- That there was "bad blood" about Kachlik not paying Loop child support for their son, Erik Kachlik. (In fact, Kachlik paid Loop a six-figure settlement in 2005 accompanied by a sincerely written apology, followed by nearly $900 from Social Security each month thereafter, and they remain on good terms);
- That Wiese had never been to the Kachlik residence, (In fact, Wiese had ridden along with Marsh to the Kachlik address numerous times, not having his own transportation

due to that his driver's license was usually suspended for nonpayment of his child support);

- That Wiese kicked the chair out from under the closet door handle to allow Trnkova to escape as soon as the robbers exited her premises;
- That Wiese had any clue what the robbery date had been;
- And finally, that Wiese did not benefit from confessing to the robbery.

6) If this were not enough, CC DDA Amos did not learn much during the Trial itself, even when his own witnesses' statements on the stand contradicted his Opening ones. Note that on numerous occasions during Closing, he continued to introduce evidence nowhere in the investigation, Discovery or testimony, and he continued to brazenly contradict the victim's own testimony more than once. His **Closing Statement** errors are listed below:

- That Marsh and Wiese were business partners, and that Wiese was not merely the W-2 employee whom Marsh paid $25 per hour;
- That Wiese upheld his official Cooperation Agreement to testify substantially the same as in his earlier proffered interviews, when CC DDA Amos *had to know* differently, since he attended and participated in all proffered *investigative* meetings prior to Trial;
- That Wiese "came clean" about his crimes;
- The marital status of Kachlik and Trnkova, again;
- That the robbery crime-scene yielded no leads, no evidence (like DNA or fingerprints);
- That the robbers wore facial disguises;
- When Wiese entered the Kachlik residence;
- That Wiese's conscience is what prompted him to testify;

- How long it took for Wiese to “come clean” about his drugs;
- How many people interacted with Trnkova when she was stuffed in her closet during the robbery (In this, CC DDA Amos even contradicted Wiese, his own witness);
- That Wiese tried to console Trnkova, rather than re-attack her in the closet with his stun gun;
- How many silver transactions occurred after the robbery, when the CC DDA could produce evidence of just the only one that Wiese brought Marsh into;
- Kachlik’s history of immigrating to the United States from then-Czechoslovakia, his later move to Oregon, and his business dealings in both places;
- Which year Kachlik and Loop ended their relationship;
- Which year Kachlik divorced his first wife, again;
- Which year Marsh began his construction business, again, even though it is listed on the CCB and Secretary of State’s website;
- Which year Wiese began working for Marsh at Silvergate Construction, again;
- That Wiese had a “successful dojo” in Vancouver, Washington;
- That Wiese was not financially desperate (to repay the cartel for their drug shipments he lost – twice!);
- The name of the coin shop as Tacoma Coin *& Pawn*, repeatedly throughout, instead of correctly Tacoma Coin, Stamp & Jewelry;
- The name of the coin shop’s bank as Sterling *Silver* Bank, instead of Sterling *Savings* Bank;
- That Marsh “pawned” silver coins for less than their value when he actually got full spot-price;

- When and how Trnkova was zapped by the stun gun;
- That there was historical animosity between Kachlik and Marsh concerning raising Erik, when in reality Kachlik is to this day grateful for Marsh's supportive parenting behaviors;
- That Kachlik owed Loop money, which is, again, false;
- That Wiese had no way to find out that Kachlik was in Europe when Wiese wanted to rob his residence;
- That Wiese was nonchalant, respectful and tidy when combing the Kachlik home for valuables, while Marsh was angry and frustrated;
- That anyone knew in 2011 to look in Marsh's burn barrel for robbery evidence, which was three years prior to Wiese's 2014 robbery "confession;"
- That Marsh would not know how silver sales work, which is especially silly in light of his professional, expert-level, financial crimes training and background;
- That someone would get a *higher* price for their silver coins by moving *more* silver at once in one larger transaction versus various smaller ones, thereby ignoring cash reporting laws of the type with which Marsh would be intricately familiar, due to his law enforcement profession, and would have avoided if he were actually laundering money;
- That Marsh needed "test" cases for selling silver, to "see how it worked;"
- That Olympia is a town in Washington, and not the name of Wiese's friend who sold Marsh the silver in question;
- That Marsh had no reason to obtain a cashier's check from the coin shop's bank;
- That Julie Marsh was still married to Floyd Marsh in 2011;

- That Marsh deposited silver coins to get the bank's cashier's check. (This seems an apparent attempt to confuse the jury who had been told elsewhere that Marsh traded a commercial check for a cashier's one);
- That Marsh signing over the cashier's check to his ex, which is fully traceable, was somehow sinister or illegal;
- Why the IRS was "after" Marsh. (Consider that Marsh's IRS audit did not conclude until June 2012, almost a year after the robbery, so no levies had been placed against Marsh at the time of the robbery and thus it could not have been a catalyst for the crime as he was free to sell any of his free-and-clear properties meanwhile.)
- That Loop lived with Marsh at the time of his 2014 arrest. (She didn't. Loop leased a Wilsonville apartment at Jory Trail at the Grove from June 2013 through March 2014);
- That investigators or Loop, and not another party in Creswell, found the Czech coins later used at Trial (because CC SO detectives never asked);
- Again, CC DDA Amos talks about "pawn, pawn, pawn." Nothing was pawned. The coin shop was not a pawn shop at all;
- That someone wanting to sell silver "under the radar" will always look for a pawn shop that will liquidate as *large* a quantity as possible, at once, ignoring IRS reporting laws;
- Again, that Marsh sold the coins for a fraction of their value;
- If a transaction is legitimate, a person would only "cash" a check;
- A cashier's check has no purpose;
- It is unimportant where Marsh claimed he got the silver;
- Again, pawn, pawn, pawn.

- That Marsh intentionally hid from the jury his reasons for getting a cashier's check (even though no one asked him about that at Trial and he wishes they would have);
- That Wiese was done selling drugs;
- And, finally, details matter to CC DDA Amos.

(If a person so desires, the above **Opening and Closing Statement errors** made by CC DDA Russell Amos can be found, and are *expanded upon* with Exhibits*,* in attachments located on the "Cases" page of www.innocencefoundation.org.)

CC DDA Amos's mistakes and misunderstandings were not limited to his Opening and Closing Statements. For example, on cross-examination, he asked Ms. Loop about Silvergate Construction's real estate, although Silvergate Construction never had any properties in its name. Rather, Marsh and Loop's properties were in the name of Loop's LLC. It is a bit mind-boggling that CC DDA Amos came to court not having conducted the due diligence of a quick online public records check at the Assessor's office to see who really owned the properties he was talking about. Instead, he appears to simply have gone with Wiese's *guesses* that Marsh's construction company "must've" owned the buildable lots in question, so CC DDA Amos's leading line of questioning (about Silvergate's Construction's real estate), once again, made no sense.

7) As an aside, Marsh's defense was not allowed to present "hearsay," such as what Wiese said to Trnkova before he attacked her a second time. "Now look what you made me do." However, CC DDA Amos broke into first-person mimicry quite often during the trial, play-acting roles as if on a stage, and as though he himself were present in conversations that took place before or during the robbery.

At Marsh's Trial, CC DDA Amos touted the importance of details; clearly, he does not see their value, as every one of his above misstatements are easily verifiable as just that. Ironically, the crime victims themselves had most all of the answers he needed, had CC DDA Amos cared enough for accuracy's sake to merely ask them.

G) INEFFECTIVE ASSISTANCE OF COUNSEL.

The prosecutor was not the only poor representation associated with Marsh's case.

1) Marsh's court-assigned public defender, Brian Schmonsees, refused to read Marsh's 81-page rebuttal to Discovery, citing time constraints, even though Marsh waited in CC jail for 16 months preparing and waiting for Trial.

2) Schmonsees also failed miserably in voir dire, for he allowed a coworker of the prosecutor -- yes, an employee of the CC DA's office -- to sit on and deliberate with Marsh's jury.

3) Schmonsees was extremely unfamiliar with Wiese's prior proffers. He appears to have barely perused them, for he failed to properly cross-examine or impeach Wiese for his testimonial inconsistencies from proffer to Trial. Additionally, he could and should have brought out that Wiese's pre- and post- robbery timelines were physically impossible. See **Addendum 3.**

In conclusion, Schmonsees had a duty to make Wiese's unreliability known to the jury, and to explore Wiese's physically impossible timelines; he did not do so. No reasonable juror could have had the basis for conviction beyond a reasonable doubt had Marsh's public defender, Brian Schmonsees done his job to an appropriate level. It is notable that, even as it was, Marsh's jury split 10-2, convicting on only half the charges. Clearly, they were skeptical.

H) SUMMARY/PETITION ELEMENTS SATISFIED

1) In summary, forensic evidence collected from the crime scene excludes Marsh from being a contributor. Loop's Czech coins do not tie Marsh (or anyone else) to the crime-scene. Marsh does not match the victim's description of the robber in terms of age and weight. Marsh was known to the victim; if he had robbed Trnkova without a disguise (and she does, in fact, agree there were no disguises), then she would have recognized him.

Additionally, there is substantial evidence to indicate that Trnkova's attacker was left-handed, when Marsh is not.

CC SO and DA were politically motivated to convict Marsh. They did not follow standard investigative practices, such as interviewing the suspect. They *had to know*, or *should have known*, the massive number of inconsistencies given by their unreliable witness, Wiese, for they were present at proffer, Grand Jury and Trial. And, as you can see from this document and **Addendums 1 & 2,** Wiese's inculpatory testimony has been thoroughly debunked.

Moreover, CC DDA Amos appears to have known little about the victims or the case and prefers to have just "winged it" with various well-known (easily verifiable) facts pertaining to the case. Likewise, Marsh's public defender did not well-prepare for Trial, and was unfamiliar with the facts of the case; thus, he failed to impeach Wiese, the State's primary witness.

Marsh's 2017 convictions were vacated in 2022 and ultimately dismissed, which is consistent with the truth that Marsh had neither knowledge of, nor part in, the crimes for which he was wrongfully charged, wrongfully convicted, and wrongfully incarcerated.

The foregoing represents evidence of Marsh's innocence.

Marsh's jury did not have the benefit of the information in this petition. The State should compensate Marsh due to the evidence presented herewith. *Schlup v. Delo (1995)*

2) Petitioner satisfies each element of the statute and is therefore entitled to relief.

(a) Marsh was incarcerated related to the robbery and money-laundering charges from approximately May 15, 2016 to April 6, 2022. He continued on supervised release until January 5, 2024.

(b) On August 18, 2017, Marsh was acquitted of four person-to-person charges, but was found guilty on one count each of: robbery in the 2nd degree, burglary in the 1st degree, aggravated theft in the 1st degree, and money-laundering. However, his jury was split 10-2. On December 1, 2017, Marsh was sentenced to 70 months for the robbery conviction with *concurrent* lesser sentences for the burglary and theft charges. Additionally, he was sentenced to serve a 12-month *consecutive* sentence for the money-laundering. Marsh was granted no "good time." He was specifically excluded from programs that included early release. He received credit only for the 15 months he spent waiting for Trial in CC jail in 2016 and 2017. In all, Marsh was sentenced to serve 82 consecutive months. Beyond that, he was originally sentenced to have served three years of post-prison supervision.

(c) As mentioned, in February 2022, Marsh's convictions were vacated and remanded for a new trial on a Post Conviction Relief (PCR) petition. His now-wife, Connie Loop Marsh, bailed him out of jail on April 6, 2022, pending a new trial.

(d) On January 5, 2024, the State dropped all charges against Marsh, with prejudice.

(e) Marsh had no involvement whatsoever in the robbery of his coparents, Kachlik and Trnkova. There is no evidence connecting Marsh to the crimes, except for perjured testimony by the state's witness, Gerald Wiese.

(f) Marsh did not commit perjury, fabricate evidence, or otherwise cause his own wrongful conviction in any way. In contrast, at every opportunity, Marsh has unwaveringly asserted his factual innocence including, but not limited to, at his sentencing hearing. Commonly, a person may claim innocence initially to avoid punishment, but either after the punishment is no longer a threat or else it is a surety either way, a person has no benefit to continue false claims of innocence if they are guilty. Marsh served most of his original sentence before he rejected a thinly disguised plea deal from CC DDA Amos for time served. Consistency, as in Marsh's case, is an indicator of truth.

3) Moreover, the events surrounding this case led to Marsh's placement on the National Registry of Exonerations. This is a respected, objective, third-party organization who fully vetted Marsh's case, and whose staff claims to have read every word of every known existing document associated with his case. This organization will risk neither its own reputation nor its integrity by placing someone on its Registry without full vetting and evidence of factual innocence. Therefore, the court may feel safe in siding with its conclusions on the matter.

I) RECANTATIONS & INDICIA OF RELIABILITY

Wiese was coerced into giving testimony to convict his former friend, Marsh. His freedom was being held for ransom by the State due to his pending drug charges. He was incentivized to help the State obtain Marsh's conviction, so much so that he agreed to commit, and actually committed, the crime of perjury.

We know Wiese gave false testimony, because all his versions of the robbery cannot simultaneously be true.

Opposers may attempt to claim that even if Marsh did not do everything that Wiese claimed, he might still have been involved in this crime somehow. However, consider that Wiese had full immunity, so technically he did not have to lie at all in any given version, except that the truth that Marsh was *not* involved in the robbery did not serve the goals and purposes of the DA who wanted Marsh's conviction at any cost. Nonetheless, Wiese changed his crime versions from proffer to Trial in various ways. Perhaps this is because when one lies it is difficult to recall one's prior versions, especially from three years prior – while other changes appear to have been carefully orchestrated to better align with hard evidence, such as to whom the cashier's check was made out by Sterling Savings Bank or whether disguises suddenly impeded the victims' ability to identify Marsh whom she knew. This latter is suggestive of witness-tampering by the more-knowledgeable CC DDA Amos, which would not be the first time. (*State v. Weaver*, 2020)

In *both* drug proffers, *as well as* the robbery proffer, which Wiese gave in 2014 to law enforcement, he blamed his drugs on Marsh, all of which he then suddenly recanted on the first day of Trial in 2017. Yet, CC DDA Amos held up Wiese's three proffers to the jury of proof positive of Wiese's honesty, transparency and willingness to do the right thing by his conscience. In reality, in 2014 when Wiese first cut his deals, he never thought he would see Marsh again. Back then, Marsh was housed in jail in Kane County, Illinois, awaiting court appearances for marijuana charges that no one knew back then would ultimately be dismissed. Wiese was undoubtedly among those who were surprised when Marsh suddenly became available for extradition back to Oregon in May 2016. He no doubt felt backed into a corner to testify as promised regardless, to avoid harsh punishment.

Law enforcement failed to corroborate Wiese's statements with public, financial and employment records available at the time, as one would expect in a normal investigation. (In contrast, they *did* have DNA evidence, but they failed to analyze it prior to Marsh's Trial.)

To date, Wiese has failed to recant his false testimonials against Marsh, possibly because he feels an ongoing obligation to suppress the identities of his true robbery accomplices. After no-contact restrictions were lifted upon Marsh's 2024 exoneration, however, Marsh contacted Wiese, who was easy to locate (despite the falsehoods CC DDA Amos had just made to the court concerning Wiese's whereabouts, plus earlier nonsensical misrepresentations CC DDA Amos made at Marsh's bail hearing about Wiese fearing Marsh's release – also since debunked). See **Addendum 4**. Marsh and Wiese have since remained in close contact, even working together again on construction jobs in Portland. Yet Wiese has yet to come clean about who really assisted him in the Kachlik robbery.

That said, are such recantations really necessary? We already know there were issues with every single proffer Wiese gave, for in no version did he do anything other than attempt to blame Marsh for drugs he suddenly and allegedly owned up to at Trial. Again, Marsh has never been given any Discovery or information about the circumstances by which Wiese decided to "come clean" about the drugs. That was a surprise on the first day of Trial, as CC DDA Amos failed to uphold the integrity of the Discovery process. To be clear, there is no record anywhere of Wiese's interview wherein he disavowed his prior drug accusations against Marsh. So, even Wiese's few recantations have been done in a shroud of secrecy.

Interestingly, Marsh's sentencing judge appears not to have believed Wiese's drug recantations, for she incredulously mentioned *Marsh's* alleged drug involvement in her decision,

even though Marsh never faced any drug charges and no drugs were ever found in his possession or under his control. (When Wiese was arrested in 2014 on drug charges, Marsh was in another state.) Even more interesting, Wiese seems to have (just prior to Marsh's sentencing, but perhaps unknown to his sentencing Judge Steele) recanted his own in-Trial claims of "coming clean." This was to Sergeant Kevin Hogan of the Multnomah County Sheriff's Department. When Wiese was arrested for *new* drug activity just a few days after Marsh's 2017 trial, he told Sergeant Hogan he "never has and never will" come clean about who his true drug suppliers were, because he feared them worse than he did prison or law enforcement. The moral here is we cannot trust even Wiese's recantations. He always has some angle to benefit himself.

Neither has Wiese apologized to Marsh for inculpating him in the robbery. He maintains he was justified to do so, because Mexican gang members were out to get him, and showed up at his apartment wielding rifles and machetes. Supposedly, Wiese desired to get out of jail to protect his loved ones from his own cartel troubles. See **Addendum 4**, which is a transcript of a phone call between Marsh and Wiese, shortly after Marsh's exoneration. In this phone call, Wiese admitted his true motivations for the robbery and testimony against Marsh, which were as Marsh claimed all along. Wiese also appears in these transcripts to admit that *he made up stories* to law enforcement upon his 2014 arrest, just to get the cops to stop interrogating him, as he was in a sleep-deprived state. Yet, somehow, in Wiese's mind, it was ultimately "fair" for Wiese to take full responsibility for the drugs, while Marsh took the wrap for Wiese's robbery in which he took no part. In this, Wiese continues to display a lack of remorse or rehabilitation. He

is just relieved that the Mexicans who were after him were most-likely murdered, for they certainly disappeared while he served time in prison concurrent with Marsh. Wiese lucked out.

CC Detective Eric Lee threatened Connie Loop on more than one occasion – once on the phone early in 2014, which was taped, and the other time when he visited her Creswell home in September 2014 - not to offer exculpatory evidence in the Marsh case. His partner, Detective Maurice Delehant, also verbally warned Loop, again in a taped phone call, on the day of Grand Jury, not to "get jammed up" by talking about the case to law enforcement, the implication again being she would be targeted if she did. Loop consistently ignored these warnings, and has been vocal throughout about the facts of the case and how they confirm Marsh's innocence.

Loop is in an unquestionably unique position to gain first-hand accounts from all parties, because she is related to both the accused as well as the victims. It was her own son's money in the form of silver, plus a singular one-ounce gold coin that was a gift from Erik Kachlik's father on Erik's first birthday, that vanished in the robbery. Further, she personally witnessed the court staff remove Trnkova from the lobby before Wiese was brought in to keep Trnkova from identifying him; and Loop has had many post-Trial conversations with the victim, Trnkova, which clarify details of the robbery. In the interest of justice and truth, in 2020 Loop created a 501(c)3, website and thereafter a YouTube channel to get the word out after her own deeper investigations proved Marsh's innocence to herself. (See innocencefoundation.org/cases. And, on YouTube, search: Innocence Foundation Prosecutorial Misconduct.) Clearly, Marsh and Loop have maintained claims of innocence unwaveringly, even in the face of much opposition, threat, and even torture, by law enforcement.

J) STATEMENT OF HARM

During Marsh's incarceration, he suffered immeasurably.

In the CC Jail, Marsh was starved, as deputies threw his food through the chuck-hole onto the floor many days, rendering it filthy and inedible. In all, Marsh lost 62 pounds while in custody there.

As discussed in Section D above, before being transported from the CC jail to a medical clinic in Oregon City, Oregon, to have his already-broken wrist checked, Marsh complained the flex-cuff restraint was causing his wrist severe pain. As a reminder, the transport deputy's response was to cinch the tie even tighter, which caused Marsh nearly to pass out from the excruciating pain. New X-rays would reveal the broken bones were dislodged. Marsh filed a formal grievance, which went nowhere, due to that the jail's cameras were not working. To this day, he has arthritis in that wrist, traceable to that injury.

The harm that the CC SO and CC DA perpetrated against Marsh had far-reaching consequences for Marsh even before he returned to them in 2016. When he was extradited from Kane County Illinois, Federal Marshalls took custody of him. At this time, Marsh was in a wheelchair. He recalls the Marshalls reading his extradition paperwork generated by CC and thereafter giving him disapproving looks. Next, they placed him in the back of a transport van with his hands chained at his sides so that he was incapable of defending himself, and they proceeded to drive him to the Con-Air hub by means of what is informally known in police circles as a "Hollywood Screen Test." This means that the Marshall who drove the transport van would slam on the breaks regularly, ramming the prisoner's face into the wire mesh screen that separated the back of the van from the front. As the prisoner is constrained, there is no way for them to brace themselves, or to protect their face, or to avoid being slammed into the wire

mesh repeatedly. Marsh's van was in heavy traffic for about two hours, so his face was slammed many times. When they arrived at the Con-Air hub, he was deemed in too bad of shape to be accepted by Con-Air, who felt his overall health and condition was too poor or would render him too vulnerable to be placed within their prisoner population. Con-Air rejected him. Hence, he was taken to a nearby county jail where he was treated more humanely to await his flight. However, this incident is yet another example of the prejudice and harm to which Marsh was subject, due to biased attitudes generated within Clackamas County.

It is noteworthy to remind the reader here that at, as of the time of Marsh's transport, Wiese was still blaming Marsh for his illegal drugs, which no doubt would have been a part of Marsh's paperwork.

After his conviction in 2017, Marsh was sent to Two Rivers Correctional Institution (TRCI), where he was regularly forced to witness violent acts, even one resulting in an inmate's death, without his former ability to intervene. This caused him ongoing PTSD for which he is being treated by Veterans Affairs (VA).

During the pandemic, Marsh suffered a serious stroke, after which medical staff ignored unit officials' calls for help for four hours, finally arriving at 1:30 p.m. after his 9:30 a.m. stroke on Sunday, July 19, 2020, according to medical records in Marsh's possession. As a result, Marsh did not receive thrombolytic or other mitigating drugs, and he has ongoing issues associated with his 2020 stroke.

During the pandemic, inmates did not have access to toilet paper at all times. (Neither did the public, but at least they could do something about it.)

After Marsh's hospitalization for his 2020 stroke, he was thrown into an isolation hold for 17 days, where for the first week, his eyeglasses, medications and all personal property were withheld from him. Meanwhile, his legal Appeal paperwork was thrown by officers into a garbage bag, drenched with honey and other foods, and destroyed. This was not the only time that Marsh was thrown into the hole over Covid concerns. Men in the hole due to Covid concerns were subject to all the same indignities as those being punished, such as enduring strip-searches as well as being required to stand naked with their noses touching the unwashed, infected wall, while counting to 100. (This is a primary reason, incidentally, why sick prisoners hid their Covid symptoms, allowing it to spread like wildfire within ODOC.)

While Marsh was hospitalized in 2020 for his stroke, tests showed numerous nodules or tumors on his thyroid. His doctor told him they could be cancerous and recommended a new test to find out. However, prison officials failed to order follow-up tests for Marsh. For a year, he lived with the fear, stress, and uncertainty of not knowing whether or not he had cancer. When he pressed the issue in July 2021, prison staff finally transported him to the hospital for thyroid tests. Thankfully, his thyroid nodules, though numerous and some quite large, were not malignant; nonetheless, it is a shame it took a solid year to alleviate his health concerns.

During Marsh's total of 8+ years behind bars - first in Kane County, Illinois, then in jail and prison in Oregon – he got his teeth cleaned only twice. When his teeth failed behind bars, the only option offered was to pull them. Marsh and his wife incurred thousands of dollars in dental bills during his first year out of prison, trying to undo the damage from ODOC's neglect.

The insults never seem to cease. Being incarcerated is sort of like being transported to Mars and thereafter getting beamed back to a world very different from the one from where

you were kidnapped. For example, when Marsh was first arrested, he was quite technologically advanced compared to his peers, but since his release, his computer skills continue to lag, which negatively affects his everyday life. And imagine coming home to learn your favorite vacation spa had been turned into a rehab center, and Beck's discontinued your favorite Sapphire beer, with no suitable replacement on the market.

During Marsh's last full year at TRCI (2021), corrections officers stole several pieces of original artwork he created. They had requested he gift them to them, which was against the rules. The art pieces disappeared and never made it to the mail room when Marsh attempted to mail them home. These are especially a loss due to that Marsh's 2020 stroke had rendered him incapable of drawing or creating more art for about a year.

Upon Marsh's initial 2014 arrest, his two grown sons immediately stripped his Creswell residence of his belongings. His ex-wife, Julie Marsh, took possession of Marsh's lifetime firearms collection, consisting of over 400 pieces, valued at between $200,000 and $300,000. She sold most of them and kept the money. Loop was forced to sell the Creswell residence, which was in the name of her LLC. Loop also sold Marsh's airplane, classic car, and other items. Julie Marsh sold or gave away much of Marsh's construction equipment fleet, valued at approximately $100,000. Marsh came out of jail only to a few clothes that Loop had saved for him. The personal assets stolen by Marsh's family without his authorization or the intervention from law enforcement, highlights the impact of the tremendous financial loss Marsh endured as the result of his wrongful arrest and subsequent wrongful convictions. The volume of the theft strongly disputes CC DDA Amos's contentions that Marsh was insolvent at the time of the robbery. He was not.

When Marsh was released on bail (pending a new trial) on April 6, 2022, his wife did not recognize him due to the amount of weight he had lost, once again, in the most-recent care of CC Jail. He came home to a 2-bedroom, 1-bath, 786 sq. ft. apartment his wife had rented for over four years without ever paying rent late once. Nonetheless, Marsh was not allowed to stay on that property, because he was not yet exonerated and his case was not yet expunged. Thereafter, Mr. and Mrs. Marsh experienced severe housing insecurity, and were required to move three separate times over a period of about 20 months, resulting in severe hardship and expense, life-threatening physical injury, and more loss.

Despite his exoneration on January 5, 2024 **[Exhibit 7]**, Marsh lost a well-paying job four months later, because his boss found a picture of him displayed online alongside a photo of the drugs with which *Wiese* had been arrested while Marsh was a continent away. Www.oregonlive.com Other people were able to use the template of inaccurate information *that originated from within the CC DA's office* and regurgitated without verification by the media, against Marsh, resulting in his inability to support himself and his wife.

Further, due to his wrongful convictions, in addition to his fortune, Marsh lost his freedom, future, friends, reputation, and hard-earned career certifications, which have yet to be fully restored.

In addition to these harms, it is known that for every year that a person spends in prison, two are taken from their life. This means the State of Oregon callously and knowingly stole not only the years Marsh was incarcerated wrongfully, but they also shortened his longevity. Incarceration shortens life expectancy | Prison Policy Initiative

The legislature has acknowledged these types of harms in the drafting of its legislation.

Marsh is grateful for his exoneration, and he wishes to be fully restored herewith through legal compensation.

K) PRAYER FOR RELIEF

1) WHEREFORE, Petitioner prays the court provide the following relief:

(a) Statutory compensation for five (5) years and 111 days in jail or prison, at a rate of $70,900 per year, for a total of **$376,061.00**, payable in one lump sum;

(b) Statutory compensation for 269 days in 2022, 365 days in 2023 and five (5) days in 2024 for (parole-like) conditional-release (travel and contact restrictions, mandated weekly check-ins, etc.) pending a new trial, at a rate of $27,300 per year, for a total of **$47,884.00** payable in one lump sum;

(c) **Reimbursement for all restitution, fees, court costs, attorneys' fees, and all other sums paid by Petitioner** as required by any pretrial orders, incarceration, and the judgment and sentence in any proceeding that gave rise to his conviction, the vacation of his conviction, and the dismissal of charges against him relating to the robbery of the Kachlik household;

(d) All costs paid to make phone calls *to or from* Mr. Marsh during his incarceration. As it would be difficult to obtain records for this line item, Petitioner requests a very conservative **flat $1,500 award**;

(e) **Wages** not paid by the Oregon Department of Corrections for full-time labor in prison **at a rate of $15 per hour**, the full amount to be determined later;

(f) An order directing the State to pay the U.S. Treasury for the **employer's unpaid contribution to Social Security** in the amount of 6.2%, the full amount to be determined later;

(g) All **legal costs** incurred in litigating this Petition, as well as reasonable attorney and/or paralegal fees for time spent preparing for or litigating this Petition by Petitioner's attorneys and/or paralegals;

(h) A **certificate of innocence** finding that the Petitioner is innocent of all crimes for which he was wrongfully convicted, and;

(i) **An apology** by the State, or representatives of the CC DA office and the CC SO -- verbally or otherwise;

(j) **Such other relief** as this Court may deem just and proper.

2) Petitioner thanks the court for its thoughtful review.

Dated: September 14, 2025

Respectfully Submitted,

_____

Floyd William Marsh, Jr.
BY: Connie Marie Loop Marsh
Paralegal/MA Restorative Justice
JD Student
Petitioner's Wife
1024 Big Mountain Road, APT 117
Salem, Oregon 97306
Floyd Marsh: (541) 520-4087
Connie Marsh: (503) 477-2335
Travelinman903@gmail.com
connie@innocencefoundation.org

Additional Contact:

Cont. on following page . . .

ADDENDUMS

1. A. "Wiese Impeachment Project" (2023) juxtaposes Wiese's changes in testimony between: proffers, Grand Jury, and Trial.
   B. Diagrams of Wiese's two versions of robbery invasion into Kachlik home.

2. "Amos/Wiese Project" (2020) cross-citing all of Wiese's testimonial contradictions from proffer to Trial. (This addendum also shows helpful items, such as a photo of the broken chair, as well as the coin shop silver receipt.

3. "Post-Robbery Timelines" proving how Wiese could never have driven or accomplished all he said he did in the time he claimed.

4. "Transcript of Phone Call" between Marsh & Wiese after Marsh's exoneration, proving that both Wiese and CC DDA Amos lied in and to the court.

5. CC DDA Amos's "Opening Statement Errors" (2019) and "Closing Statement Errors" (2021) See PDF attachments on the Cases Page of www.innocencefoundation.org

6. Correct Timelines & Dates for parties to the case, verifiable by victims, et. al

7. January 22, 2025 Signed Order: Motion to Dismiss with Prejudice

CITATIONS

- *Brady v. Maryland*, 373 U.S. 83 (1963)
- *Buckley v. Fitzsimmons*, 113 S. Ct. 2606 (1993)
- *Giglio v. United States,* 405 U.S. 150 *(1972)*
- *Schlup v. Delo,* 513 U.S. 298 (1995)
- *State v. Weaver* 472 P. 3d 717, 367 Or. 1 - Or: Supreme Court, 2020