

TWELFTH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

PARISH OF AVOYELLES

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VINCENT SIMMONS

DOCKET #37596-A

VERSUS

HONORABLE WILLIAM J. BENNETT

DARRELL VANNOY

JUDGE PRESIDING

MOTION TO RECUSE DISTRICT ATTORNEY

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BY THE COURT:

Before we are officially on the record, oh no you can go on the record, on the hearing on the Motion to Recuse there are a couple of issues I wish to discuss in the nature of a pre-trial pre-hearing conference and status conference of the case, any objection?

BY MR. BONUS:

No objection.

BY THE COURT:

Very good. First thing I want to make sure that the record is clear is before Judge Spruill was recused at my suggestion, discussions were begun in an effort to resolve this case, to put it to sleep, and to give you credit for time served to where you would released. There were some discussion as to whether or not if that was done, you would have to register as a sex offender. I researched it extensively and it was my opinion you would have to.

Since then I have been told but I have not seen and if fact this happened a couple of days ago, that an attorney in Rapides parish named Mike Small, all he does is criminal work had a very similar case in Rapides parish and convinced the judge that registration was not required for someone that at the time of conviction or plea was not required to register. So I don't know what the basis that was for, I can tell you in my opinion forcing you to register when in 1977 you were not ... is not fair. But my appreciation of the law is that you would have to. But I throw

that out there in case counsel would want to
based on what Mike Small to see ...

BY MR. BONUS:

I would, Your Honor.

BY THE COURT:

O.K. Because you know as I've documented to
both sides I've been judge twenty-four years in a
matter of five minutes I researched and found two
cases and I know I can find more where people
were convicted of forcible rape, not attempted,
or convicted of another rape charge and have
already served their time and are out and that's
with a ... I've been judge twenty-four years and
you've been in forty-four years and the State has
agreed that to vacate your previously imposed
sentences of fifty-years consecutive on each
count and give you forty-four years or whatever
time served you've had in concurrent on each
count to where you would be released. Of course
the issue of the sex offender registration was
the problem, okay.

Which I understand and I respect that
decision, but I don't want any misunderstanding
as to where we stand with that and if there is an
avenue to where he would not have to register as
I've in my opinion he should not have to.

But my research indicates otherwise. All
right, Mr. Bonus.

BY MR. BONUS:

Yeah I did extensive research too and I
think that the appellate reasons the circuit
courts are split and when you get to the supreme

court it's almost an operation of law that's outside of the court's jurisdiction from what I've seen because Louisiana like in other places have a sex offender registry board that implements this, so it is an operation of law. Now I thought ... I have ... I talked to Mike Small and I know some people that might know Mike Small or maybe have contacted and see exactly what he did to enable that type of procedure to happen...

BY THE COURT:

And this is just second hand information that I've received, I want you to know that, from another attorney who said he was in the courtroom when the same issue was brought up.

BY MR. BONUS:

Yes, I'll see if I can reach out to him.

BY THE COURT:

Very good.

BY MR. BONUS:

I am in agreement with Your Honor and also

...

BY THE COURT:

But there is ... a kink in this is it's my understanding that part of the offer of the State is a requirement, I don't know if that ... registration ... I don't know if that is because of the law as explained as appreciated or if that's part of the request of the district attorney.

BY MR. RIDDLE:

I think that's it, Your Honor. Because it was a requirement of law, I informed the victims of that and they said look, whether that would

void the agreement if it happens to turn how the supreme court would rule differently, I am not sure but I think it's pretty clear that the supreme court has ruled that he's got to register as a sex offender.

BY THE COURT:

O.K. Well I just wanted to throw that as Mr. Simmons, as I've told you before I don't hide the ball, okay.

The next issue I want to talk about is since the last time ya'll were here, I have had multiple, let me just put it that way, contacts with Keri Laborde Desoto or whatever her last name is now and Keith Laborde. Totally unrelated to this case in that there were no discussions or dealing with alleged criminal activity. Well we had ... I've already had the protective order hearing but since then there's Ms. Laborde appeared to me for the purpose of executing a warrant and affidavit against someone which I have found out she held, and then Mr. Laborde came to me for a warrant and affidavit against someone, although not directly related about this case that has a peripheral involvement. And I want to tell you that I've offered from day one you let me off this case, you're not going to get any hesitation. If you think I have, okay.

Current playtime

I personally want you to know and this is all in the nature of a pre-trial conference while your case has been pending all these years, I didn't pay much attention to it, I must admit. I

never watched the film, I knew about it certainly. Since I have been on this case the public knows I'm on this case. I ... in a grocery store last week a lady came up to me and says you're Judge Bennett and I said when I have my dress on. And she says you know Vincent Simmons didn't do that. I said no ma'am, I don't know that. She said it was his brother Bruce. I said no ma'am, I don't know that. I've had other people come up to me and say he didn't do it or that you did do it or things of this nature.

I will not ... I don't operate ... I don't make decisions on what's outside of the courtroom, I make it on here. But this is a small area, rural area, this is a popular case and I have had people even come to my house if they want to talk about your case. And of course I've told them no I will not. But people do ... their friends out to me. And I want you to know that, okay. I don't want everything is going to be at this table all right, I want you to know everything that is going on with me. Because if you don't want me on this case, I understand, you want somebody from out of here I understand and respect that. You want me on it, hey I'm ready I'm not going to jump off for no reason, okay. You understand that, I want that clear from day one, okay. Got it?

BY DEFENDANT:

Yes, sir.

BY THE COURT:

Ya'll need a moment to talk, or you all right.

BY MR. BONUS:

Yes I do and I just need to talk to Vincent on a couple of things. Number one, March 19, 2021 I asked for certain files from the district attorney and then to the sheriff's department by Kerri Laborde. Should have gave to me the video taped statement you know, alleging that her father had raped her. I also gave video recordings of family members that they just seen two things. I'm not sure of the name Shawn or I don't know his last name. But Shawn Morris is his name, I think. With threats to Kerri so she might ... that might be what you are specifically talking about and yes some of the information that you're talking about is actually inner twined in this case because indeed it goes to past history of Keith Laborde.

I just want to keep you know...

BY THE COURT:

In my opinion Mr. Bonus, anything involving Keith and Kerri Laborde has somewhat of a connection to this case. I've already explained to ya'll the involvement with them for the ... over the years and years having been a judge on Ms. Desoto's divorce case back in 2004 and on. Even when Judge Spruill was representing her I was the judge on the case. My involvement with then since then and in my opinion the issues that are involving Keith and Kerri Laborde do have a connection to this case, okay.

BY MR. BONUS:

The only thing I wanted to ask Your Honor, is just would be able ... in the event that we you know move to recuse you, would ... would we be able to get the recusal hearing done today for Mr. Riddle and then afterwards your honor how ... I just want to give Mr. Simmons the most information possible before I go forward, procedurally how do you perceive that?

BY THE COURT:

Procedurally what I see if ya'll want me off, ya'll need to do it now because once I start making ... I'm not ... I mean you can always file a Motion to Recuse but then you'll have to come up with a definite ground and I don't know because as you know from me, I'm going to tell you what I know.

It would, it would be in my opinion it would need to be now, okay. Because the way I look at it is this, if I rule don't recuse the district or do recuse the district attorney and then if I don't recuse him and he says well now I want him off the case, you know. It's certainly looking like impropriety is existing, okay.

BY MR. BONUS:

I understand that, I'm just for the sake of finally getting this done because this has been hanging on us since January and we just want to get the ball rolling. So if I could talk to Mr. Simmons?

BY THE COURT:

Sure, and you know we also have the issue of your request for protective order which we need to discuss because there is some law that I believe that applies there that needs to be in my opinion regarding those protective orders I couldn't find anything in the law that allows you on behalf of Mr. Simmons to get me to order non-parties, non witnesses to keep still. What I did find is the allegations that you have made may clearly fit the definition of public intimidation or witness tampering in our statute. And that the proper thing would probably be to have someone swear out an affidavit and warrant to where a condition of the bond could be no Facebook, no social media, no discussion of this case things of that nature.

BY MR. BONUS:

Let me be clear and I want to be clear to everybody here that I don't care what Susan Laborde says and I'll be clear that she's the one. She is crazy of that, absolutely. I don't care what she posts on Facebook. I don't care what she posts ... I don't care what Keith Laborde posts on Facebook, I don't care what anyone posts on Facebook, all right. But when you message a witness, when you privately message a witness, when you drive in front of their house, take pictures of them and then send pictures to them that you're taking pictures of them that's what I have a problem with it. That's a threat, okay. That's a threat. And then when a man comes outside of his house with a gun and I'm going to

talk to a witness two doors down, that's a threat. I mean I really don't care but at the end of the day if I was on the other side those people would be arrested. They would be, they would be charged with intimidating a witness, they would be charged with with obstruction of justice.

BY THE COURT:

Well someone needs to ask ... and I'd sign a warrant in a heartbeat, somebody signs an affidavit to what you have explained.

BY MR. BONUS:

I ... the procedure.

BY THE COURT:

R.S. 14:129.1 says no person shall intentionally intimidate or impede by threat of force or force or attempt to any witness or member of the witness' family with intent to influence the witness' testimony or the witness' appearance at a judicial proceeding. 14:122 public intimidation says no person shall use force, violence, extortion, threats, or true threats upon a witness with the intent to influence the conduct of the witness in relation to his position, employment or duty.

The bottom line is the statute that you cited for the protective order doesn't apply. It's the dating violence, domestic abuse violence act. But these do apply.

BY MR. BONUS

O.K.

BY THE COURT:

And if someone were to swear out an affidavit and I sign a warrant I'm going to put as a condition of bond a protective order, okay.

BY MR. BONUS:

O.K.

BY THE COURT:

Which I do all the time, all right.

BY MR. BONUS:

O.K., understood.

BY THE COURT:

So with those discussions in mind Mr. Bonus, we'll take a recess and allow you and Mr. Simmons and if you want his family to be part of the discussion what we're going to do is get everybody out of the courtroom and let ya'll stay in the courtroom. If you want to be just with Mr. Simmons we'll give you a private room.

BY MR. BONUS:

O.K.

BY THE COURT:

Would you rather that? All right everybody except the ... Mr. Simmons, members of his family please step outside and Mr. Bonus let us know when you're ready ...

RECESS - RESUMED

BY THE COURT:

We conducted a pre-trial conference ... good morning, Mr. Larvadain.

BY MR. LARVADAIN:

Good morning, Judge.

BY THE COURT:

We had conducted a pre-trial conference concerning many issues in State versus Vincent Simmons and recess was taken for counsel to meet privately with Mr. Simmons and members of his family. Mr. Bonus?

BY MR. BONUS:

I spoke to Mr. Simmons and he would like to move forward and proceed.

BY THE COURT:

All right, very good. The matter before the court is the Motion to Recuse the District Attorney and we are ready to proceed.

BY MR. BONUS:

Correct.

BY THE COURT:

O.K.

BY MR. MANUEL:

Your Honor, for the record Derek Manuel on behalf of the State.

BY THE COURT:

O.K. The law says the Motion to Recuse the defendant bears the burden of showing by a preponderance of the evidence, so it's your Motion, Mr. Bonus you may proceed. You want to make an opening statement or simple proceed with the evidence?

BY MR. BONUS:

Just really ... I mean this comes down to Mr. Spruill ... this is going to be just a brief opening statement, Your Honor.

BY THE COURT:

Mr. Riddle, Mr. Riddle?

BY MR. BONUS:

Oh Mr. Riddle, it's Judge Spruill, thank you. Just briefly with regard to this I think this whole thing comes down to his role as a witness in this case the statements that he made to Allen Holmes, which you'll hear from Allen Holmes and then you know his knowledge of his office for the past twenty ... I guess it would be almost twenty years at this point, eighteen, seventeen years I think it is.

And then his knowledge of the prior administration and then the cross over from that prior administration aimed in fact that Mike Kelly was his first assistant. And I think ... I know that you'll hear today from Mike Kelly that Mike Kelly number one didn't even know there was a lineup in this case. They received no discovery, okay. I mean they received some discovery but it appears that the only discovery that they had in this case came from the preliminary hearing that was conducted I believe on July 7, 1977. And that Mike Kelly informed Mr. Riddle that in fact ...it might have been a casual conversation in fact, but Mr. Simmons never received discovery.

The other thing that you're going to hear is that for what ... I believe was it 2003 you were elected?

BY MR. RIDDLE:

Yes.

BY MR. BONUS:

So January 1st, 2003 and Mike Kelly was the first assistant and even during Eddie Knoll's time right, Mike Kelly was an assistant DA he was Vincent Simmons lawyer and he was the district attorney. And you know when you look at motions to recuse in other words, there's two prongs I believe it's Louisiana Rules of Criminal Procedure 680 I think it is, which is the motion ... the standards to recuse district attorney and what you have is with regards to that is the DA can either be an interested person you know, and then when you look at the rules of professional responsibility whether it's the ADA or even Louisiana if you know personal interest comes down to if you're a witness; if you have a relationship with people, right?

Well all of that matters in the framework here with regards to Mr. Riddle and people in his office. And so but he had a personal relation... this man's attorney was in his office and one of the other prongs of recusing a district attorney is if the formerly represented a defendant.

So from Mike Kelly might have been employed from 1993 in the DA's office, I'm not totally sure but I'm sure he'll tell us today. But you know from 1993 on this office had a conflict. And over and over again they opposed Mr. Simmons' motion with the person that could have told them what exactly happened in 1977, right. And then what do we know about prosecutors, the prior judicial officers, right, they have discretion, they are the ones that determine whether a case

goes forward, right. They are the arbiter, they are the vendor, they vet the cases the police brings them. So their obligation is not just to seek a conviction, it's to do justice.

They also have an obligation of candor to the court but also fairness to the accused. And when those things don't happen then we have to start back. And that's what we're asking for here. Really as somebody else, a new set of eyes, somebody and we appreciate your honor's offer, somebody from outside the parish to come in and look this evidence. Because Mr. Riddle is ... he's an interested person, you're going to hear some things about what I think his interest and I think it kind of dog tails with what was going on with Judge Spruill in relationship to people in this case. But also you know the fact that he made a statement, he Freudian slipped to Allen Holmes. And that's what you're going to hear. Yes, sir.

BY THE COURT:

Let me be frank, the basis I thought the motion to recuse was simply ... I didn't know it had these other issues so it's ... why did you pick ...

BY MR. BONUS:

Because if you read the motion it is about being an interested party, he's a party now. And I think when he makes the statement to Allen Holmes now, his (UNINTELLIGIBLE...) is having to defend the...

BY THE COURT:

Well I thought the only issue involved the statement.

BY MR. BONUS:

No, it's not.

BY THE COURT:

Or alleged statement with Allen Holmes, but there's more to it which I'm glad you're making your opening statement to bring out the issues so I can be attuned..

BY MR. BONUS:

...Absolutely.

BY THE COURT:

...regarding Mr. Kelly.

BY MR. BONUS:

Absolutely.

BY THE COURT:

Does the State wish to make an opening ... anything else, Mr. Bonus?

BY MR. BONUS:

And I wanted to just clarify, if you look in the motion that's one of the things that we talk about, is Mr. Riddle's knowledge of the history of his office.

BY THE COURT:

All right. Does the State wish to make an opening?

BY MR. MANUEL:

Yes, Your Honor. As you noted the only issue that Mr. Bonus raised in his motion was the alleged statement that was made or allegedly to Allen Holmes, is a statement that if made is not relevant. Mr. Riddle was as he said elected DA

in 2003, Mr. Simmons was convicted in 1977 and but apparently they're trying to attribute some knowledge of the history of the office to somebody who came in decades later.

The conflict of interest argument that he raises and it was not made in the motion regarding Mike Kelly but no ... because Mike Kelly didn't handle this case in the DA's office. Mr. Riddle was not an attorney for Vincent Simmons.

And again the alleged statement could not have been made for any personal knowledge, if it was in fact made at all. It doesn't matter, and we'd ask that the Motion to Recuse be denied.

BY THE COURT:

All right, very good. All right, Mr. Bonus you may call your first witness, sir.

BY MR. BONUS:

I'd like to call Mr. Mike Kelly.

BY THE COURT:

Mr. Kelly.

BY MR. BONUS:

Your Honor, if I could have Mr. Holmes to step outside I guess so he's not ...

BY THE COURT:

Rev. Holmes, there's a request made that you be placed under the Rule of Sequestration, you are to remain outside until your time to testify. Do not discuss any of your testimony with anyone except the attorneys if you wish to. Very good, sir. Mr. Kelly.

BY MR. BONUS:

Your Honor, I'd also to just briefly discuss an evidentiary issue with regard to previous filings from the DA's office. It's a transcript from December 6, 1994 that I had actually submitted to the court. And I submitted it to the DA's office from 1994. I'd ask to enter those into evidence.

BY THE COURT:

Any objection, Mr. Manuel?

BY MR. MANUEL:

No, Your Honor.

BY THE COURT:

All right, those will be admitted. That will be Motion to Recuse DA -1 will be the transcript of the 1994, that will be Motion to Recuse DA-1 for Mr. Simmons. And number 2 will be this number 2 is Answers to Application of Writ of Mandamus filed by the district attorney in that matter, that will be number 2. Any other filings prior to the taking of testimony.

BY MR. BONUS:

And then on also Your Honor, the photograph of the lineup.

BY THE COURT:

Any objection, Mr. Manuel?

BY MR. MANUEL:

Yes, sir, Your Honor.

BY MR. RIDDLE:

Your Honor, I'll state the objection. He keeps referring to a photograph of the lineup and we have the only person alive today that can

identify that and apparently he's not here, who says that was taken after the lineup.

BY THE COURT:

Well the photograph itself can be introduced into evidence subject to evidence to be presented as to when it was taken, who took it all that kind of mess but it is ... yes, sir.

BY MR. BONUS:

That transcript in there actually states that's a photo of a lineup. They stipulated to admitting evidence that this is a photograph that was turned over during the contradictory hearing that happened in ... on December 6th of 1994. This is the photograph.

BY THE COURT:

Certainly. Was that placed into evidence then?

BY MR. BONUS:

Yes it was.

BY THE COURT:

All right. It will be allowed into evidence today. That will be Motion to Recuse DA #3. All right, any other filings prior to the taking of evidence? All right, Mr. Kelly, would you raise your right hand please, sir.

BY CLERK:

Do you swear the testimony you're about to give in this matter will be the truth, the whole truth and nothing but the truth so help you God?

BY WITNESS:

I do.

BY CLERK:

Thank you, you maybe seated.

BY MR. BONUS:

Give me one second, Your Honor. You ready?

BY THE COURT:

When you're ready.

BY MR. BONUS:

Good morning, Mr. Kelly. If you could just speak up a little bit because I'm a little hard of hearing. Mr. Kelly, how old are you right now?

BY THE COURT:

First identify yourself for the record.

BY WITNESS:

I'm Michael Kelly, Judge. I was born in 1949 I'm 71 and I've been a member of the Louisiana State Bar since October 1973.

MICHAEL KELLY, who after first Having been duly sworn, testified under oath, under Direct Examination, at the instance of and by counsel Mr. Justin Bonus, which testimony is as follows, to-wit:

BY MR. BONUS

Q. And what's your present occupation?

A. Attorney, I'm semi-retired but I'm still an attorney.

Q. When did you semi-retire?

A. January of 2018.

Q. And how long have you been an attorney?

A. I think it's ... thirty-seven years.

Q. What type of law did you practice?

A. I practiced criminal law, municipal law, family law, that's basically it.

Q. And when did you begin your practice of criminal law?

A. Almost immediately, at the time Judge Edwards was the judge here and I was one of five or six attorneys that was appointed periodically on indigent cases.

Q. So that would have been in by 77 you had been practicing for what, four years?

A. Three or four years, right.

Q. And you were essentially appointed every once in awhile I guess to represent..

A. Correct.

Q. Did you work for anybody at that point?

A. Yeah I was working for Laborde, C.E. Laborde and Edwin Lafargue, it Laborde, Lafargue and Kelly at that time, it was a law firm here.

Q. And at some point did you ever become a prosecutor?

A. yes.

Q. When did that occur?

A. I think it was 1992.

Q. For what office?

A. Eddie Knoll's office, Twelfth JDC.

Q. So that would be Avoyelles Parish District Attorney?

A. Correct.

Q. So you worked for Eddie Knoll?

A. yes.

Q. And what was your role in Eddie Knoll's office?

A. I was an assistant district attorney.

Q. When you were in Mr. Knoll's office what was Mr. Knoll's policy with regard to discovery?

A. Well I don't really know that there was a specific policy. And I was never told there was a specific policy. When I got there seem like most ... mostly the defense attorneys would file a motion for bill of particulars, which is very little information. And pretty much on my own I started just copying

the file and said your answers are in the file. And he didn't object to that and that's what I started doing. And I kept that procedure up when I was with Mr. Riddle's office as first assistant basically in every case the arraignments would come through my office, my private office and we would copy every file and submit it to the defense attorneys.

Q. So ...

A. But to get back I don't really know what Mr. Knoll's actual policy was.

Q. But they weren't copying the file like you before you?

A. No.

Q. So you were the first person in that office to do that?

A. Yes.

Q. Did you ever tell Mr. Riddle, that you had sort of change the policy in Mr. Knoll's office?

A. I don't know if we really discussed it.

Q. O.K.

A. It's just something I did.

Q. And Mr. Riddle adopted that policy?

A. Right.

Q. And you know obviously now Mr. ... you worked for Mr. Riddle as well?

A. Right.

Q. And then what was your role in that office?

A. I was first assistant district attorney from whenever we took office in 2003 until December 31, 2017.

Q. Did you ever talk to Mr. Riddle about some of Eddie Knoll's practices before Mr. Riddle started to work there?

A. No.

Q. You remember Mr. Simmons' case?

A. Absolutely. And I'll tell you I remember have to recall while I'm sitting here talking about events that happened whatever it is forty-five years ago, something like that. I have certain things that I can recall very, very clearly and other things I have to kind of give you this is what I remember and then give an explanation.

Q. And when you ... you were his defense attorney, right?

A. Yes.

Q. Were you co-counsel right?

A. Yes, I was second chair to Harold Brouillette, who was twenty years older than I and was the senior attorney in that defense.

Q. O.K. Are you aware of any films that covered the Vincent Simmons case?

A. Not The Farm, no. I didn't watch it.

Q. O...

A. I think my position probably after Mr. Simmons was convicted I recall us preparing at the time the appeal went to the Louisiana Supreme Court. We were in the process of preparing the appeal and Mr. Simmons filed against everybody including us and we were out. After that point in time I followed some of the events, I was aware of some things but I did not want to watch The Farm and because frankly it's too upsetting. We weren't part of it and I understood too that we were the scapegoats too, that we had been ... that we were somehow part of conspiracy and deprived Mr. Simmons of his rights.

Q. O.K. Did anyone attempt to approach you or Mr. Brouillette, that you know of at least with Mr. Brouillette, as far as that film or ...

A. No, that was a black guy, Robert Frank was that his name?

Q. Yeah, Jonathan Stack.

A. Jonathan Stack, the guy showed up with a camera in my office and I said no cameras, I didn't want to have anything to do with that.

BY MR. BONUS:

Your Honor, I'd like to have this marked for identification.

BY THE COURT:

Yes, sir it would be Motion to Recuse DA #4.

Mark it and then show it to the witness.

BY MR. BONUS

Q. If you could Mr. Kelly, please take a look at what's been marked as Exhibit #4.

A. Yes I see it.

Q. Are you able to identify the signature on that?

A. Yes, it's Judge Brouillette's signature.

Q. All right.

A. And he actually showed me this letter before he mailed it.

Q. O.K. We have spoken about this before correct?

A. Correct.

Q. We've met a couple of times?

A. Right.

Q. Just to put that out there.

A. I want to put that out there too because that's when I learned things about the case that I did not know.

Q. O.K. But this letter may...

A. No, talking to you.

Q. Oh okay. So before you met me had you ever seen this letter?

A. Yes.

Q. You had seen this letter?

A. Yes.

Q. You spoke to Mr. Brouillette about this letter?

A. Absolutely.

Q. O.K.

A. We had discussed it.

BY MR. BONUS:

And Your Honor, I'd move that into evidence
as Exhibit #4.

BY THE COURT:

Any objection?

BY MR. MANUEL:

No objection, Your Honor.

BY THE COURT:

Without objection.

BY MR. BONUS

Q. And with respect to that letter did he speak to you
about the fact that medical reports weren't turned over?

A. Yes, sir.

Q. And how did he feel about that?

A. He was upset.

Q. It saddened him?

A. no, upset.

Q. Upset, okay.

A. And you know I'd be happy to go on about that. The
case initially was charged ... Mr. Simmons was charged with two
counts of aggravated rape which at the time had the death
penalty. And the court was considering I think Freeman versus
Georgia, the supreme court was. And the death penalty was off
the table because of hiatus. We believed at the time that the
State had reduced the charges from aggravated rape to attempted
aggravated rape to circumvent the penalty issue. We did not ...
and when the case was presented to the jury, it was presented as
if there were two completed rapes, including a vaginal rape.

And this letter at least would have gone some distance to possibly discredit that version of events. So yes, I'd say upset would be the word.

Q. Yes. It refutes at least one of the girl's accounts, correct?

A. It didn't necessarily refute it but it discredits it.

Q. Yes.

A. In the sense that the crime was ... the facts were still not exaggerated and upgraded, which of course inflames juries. Before you get to any of the other issues.

Q. Well do you recall, besides what's covered in the letter, do you recall receiving any witness statements prior to trial?

A. I recall that we did not receive witness statements.

Q. O.K. And you recall conducting a preliminary hearing in this case?

A. Yeah, actually Harold Brouillette conducted it but yes I was there throughout.

Q. And ...

A. We did not have witness statements, that you've told me in the last three or four months existed. Apparently the file had ... the witnesses had been interviewed on tape and those tape recordings were transcribed. And we didn't have of that. There were issues about identification, which we were unaware of when we walked into the preliminary exam the three main witnesses, the two victims actually there were three victims I guess there was a kidnapping involved. All pointed at Mr. Simmons without any hesitation. We didn't know, based on what you're telling me because I had never seen the State's file, I want you to understand that. That there were some differing descriptions that did not fit Mr. Simmons. That one of the girls had made the statement, this is what you told me, that one

racial epithet looks like another racial epithet and I can't tell the difference. And had we known those things I guarantee you Harold Brouillette and myself would have told the jury that. Because it indicated not only bias but the fact that the identification was at issue. We didn't ... identification was at issue at all. And the lineup picture, I think it was put in the paper, I kind of remember that.

Q. Would you like to take a look at that?

A. I've seen it but yes I'll identify it sure if you want me to.

Q. It is an exhibit, take a look at it.

A. Yeah. This exhibit I can't read it.

Q. It's on the...

BY THE COURT:

It's three.

A. Exhibit 3 that this is what appeared in the paper. We weren't even aware there was a lineup. Now some of that you know is a communication between Mr. Simmons and ourselves.

BY MR. BONUS

Q. Yeah.

A. But we did not know there was a lineup. And as your honor might understand, in Avoyelles parish we don't have many lineup cases. But someone says it's Mike Kelly, Mike Kelly is they say yes, Billy Bennett, they know who Billy Bennett is. But so that was something that Harold Brouillette and I had discussed that we did not know. And we were waiting for somebody to come so that at some point this day would come, when we set the record straight.

Q. Yeah.

A. We weren't somehow sloppy lawyers that didn't know our way around the courthouse.

Q. So I mean and this goes to some of the things you were talking about during trial, so you recall that at least one of the girls and in this instance it would be Karen that she had been raped orally, anally, and vaginally, do you recall that one of the girls said that at trial?

A. What I recall is Mr. Knoll's closing statements to the jury. In which he urged the jury that both victims had been raped orally, anally and vaginally. It was very, very powerful and I remember it. Now that I remember. Can I tell you what each of the victims said, no. I can't tell you that, you'll have to look at the record, whatever it says it says.

Q. Yeah. So you wouldn't recall then that Sharon Sanders had stated that at trial she said that Mr. Simmons had not been able to insert his penis into her vagina, you wouldn't recall that. But that would matter right if you had received the statement from Sharon Sanders where she talked a thirty minute vaginal rape where she bled, that would matter right?

A. Absolutely.

Q. Absolutely. Do you recall that both Karen and Sharon and Keith both said that they heard the name Simmons?

A. I can't recall it but I know there was a reason why we didn't think identification was an issue. But to sit her and tell you I remember that no, I don't. But ...

Q. But it would matter to you if you saw the original statements?

A. That they didn't know who he was?

Q. Yes.

A. Absolutely.

Q. And they didn't know his name?

A. Absolutely.

Q. Including Keith?

A. Absolutely.

Q. O.K.

A. Those are things that any competent defense attorney would leap to. And if we knew and we didn't do it we'd be guilty of ineffective assistance of counsel. Bear in mind the whole idea of whether a person is guilty or not, Mr. Manuel, I understand you're going to object but I want to have a say.

BY MR. MANUEL:

Listen my objection ...

BY THE COURT:

Whoa, whoa ... go ahead continue.

A. All right, I'm seventy-one and I want ...

BY THE COURT:

Go ahead, have your say.

A. Everybody in this room except for his family is proceeding on the theory that Mr. Simmons is guilty. None of us are God, and none of us know, we'll never know the real truth, in my opinion. We rely on the jury to come up with a verdict, it's not the judge, it's not the prosecutor, it's not the defense attorneys. And what we have here is evidence which we as defense attorneys as part of his right to counsel were not given, for whatever reason. And there might be other explanations I don't understand. But that verdict, the reliability of that verdict that said Mr. Simmons was guilty of these crimes is undermined by the total lack of transparency as far as the discovery in this case. And that's not ... I'm not attacking Mr. Knoll or Ms. Knoll I'm not. And I don't know exactly ... we didn't have a formal discovery procedure, I wasn't aware of any office procedure. But I can tell you this Judge, Harold Brouillette and Mike Kelly would have used those things that are in the State's file in Mr. Simmons' defense. We were not conspirators trying to deny a man his right to a fair trial.

BY MR. BONUS

Q. And back to the issue with regard to the lineup..

BY MR. MANUEL:

Your Honor, I'm going to object at this point we're going way outside of the Motion to Recuse the DA's Office, this is going to the merits of post conviction relief application. We're here right now on a hearing on a Motion to Recuse the DA's Office.

BY MR. BONUS:

I absolutely don't ... this is going to this man's knowledge, this man worked for him for eighteen years.

BY THE COURT:

But it ... this goes to his knowledge of what the district attorney's office did or did not do in 1997 ... 77, I'm sorry, 1977 which certainly is important to the operation of the district attorney's office and continued involvement through this date. So the objection is overruled.

BY MR. BONUS

Q. And with regard to ... with regard to a lineup and the testimony at trial, a lineup would have been important had obviously a lineup becomes important when you know when the witnesses testify at trial that they've never seen the man before, so this is a stranger identification, the lineup is paramount, correct?

A. Correct.

Q. Were you aware that Mr. Simmons filed a Mandamus in 1993?

A. Somehow or another, yeah I became aware.

Q. Tommy Papale.

A. Yes, sir.

Q. Were you aware that Mr. Papale testified in front of Judge Johnson I think it was Michael Johnson in 1994?

A. No.

Q. O.K. So...

A. I know that it was supposedly Tommy that had copied the file.

Q. O.K. And you had never seen this file before?

A. No. To this day I haven't seen the file.

Q. So you weren't aware that each girl gave an audio taped statement?

A. No. No that was something actually I learned from you.

Q. O.K. You weren't aware that there was a photo lineup?

A. No.

Q. Were you aware that Keith gave a statement to police?

A. No.

Q. Were you aware that there ... the medical reports from Dr. Bordelon?

A. No.

Q. Were you aware that there were multiple supplemental reports from the officers in this case detailing the witness statements, Mr. Simmons arrest and lineup?

A. No.

Q. Were you aware that there was an arrest report that said Mr. Simmons was arrested on view?

A. Usually they would give you the arrest report. So I can't say that. I would have thought there were a few pieces of paper we would get was an arrest report.

Q. O.K. Were arrest reports in this case after the girls identified Mr. Simmons in the lineup and Mr. Laborde and then there was one before that?

A. Right.

Q. You wouldn't ... you can't remember?

A. No I cannot.

Q. That's fine. But if you would have seen an arrest report that said arrest on view would you have asked for a probably cause hearing?

A. I don't know.

Q. So you know you haven't seen any of those original statements?

A. No.

BY MR. BONUS:

One moment Your Honor, just going through.

BY THE COURT:

Yes, sir.

BY MR. BONUS

Q. Just from what I told you ... we covered that. Were you aware that Sharon Sanders testified that she ... strike that, Your Honor. Were you aware that Sharon Sanders told police that she gave her bloody underwear to her grandmother to wash?

A. I can't remember. I don't really ...

Q. So if it was a part of the statement so you haven't ...

A. No, no if it's not in the record of the testimony at the preliminary hearing or the trial no. Then the answer is no if it's not in there.

Q. So you weren't aware of the fact obviously you weren't aware of the fact that Sharon Sanders referred to Mr. Simmons as the 'N' word?

A. No.

Q. You weren't aware of the fact that Sharon Sanders said during ... to the police that all blacks look alike?

A. No.

Q. Were you aware that Karen Sanders ... that the girls didn't know the actual date of the rape, alleged rape?

A. If ... all I know is what was in ...

Q. In the trial...

A. Would have been in the trial transcripts. If there was something different reflected from those pre-trial statements no.

Q. But that would have made a difference right, because you ...

A. There's no question about it.

Q. O.K.

A. We tried to establish an alibi and it's very difficult to do, we tried. But we were not successful.

Q. That was one of your defenses right, that he an alibi.

A. Yeah and that kind of went by the way side, it just ... it didn't ... I don't know if we actually called any of the witnesses or not but you now, then it just became a question of trying to attack the girls story, anything that we had and the only thing we really had was whether it was internal to the story as well as any prior statements, that being the preliminary hearing, if the story changed.

Q. From the preliminary hearing?

A. Correct.

Q. So the only thing you had at trial was the preliminary hearing?

A. Yes.

Q. And with regard to if basically at least the girls statements to police that they didn't know Vincent's name, they didn't know the perpetrator's name, that would have been a big deal to you to have a trial when they said they knew his name, isn't that correct?

A. Yes.

Q. And called the ...

A. Yes.

Q. So you weren't aware that Mr. Simmons was subjected to a lineup with three witnesses that viewed the lineup at the same time?

A. No. Wasn't really the lineup.

Q. So did you ever look at the lineup with him in the handcuffs?

A. Just in that photo.

Q. Just from what you saw?

A. Right.

Q. And if you'd seen that ...

A. Without doubt, if we had known there had been a lineup, it would have sparked a hundred questions.

Q. Yeah. How about an evidentiary hearing?

A. Oh absolutely.

Q. Because what Wade was in 67, correct?

A. We knew what the law was then and it would have sparked an entire line of inquiry as to how it was that they were now identifying him if they couldn't have identified him initially.

Q. And do you believe Mr. Brouillette's ... obviously do you believe Mr. Brouillette's claims in the letter that you guys never saw the report?

A. Yeah, and that was my claim too.

Q. You did testify that you read the letter...

A. We discussed it.

Q. I just wanted to make sure, checking off my boxes. And would it have mattered to you if you'd read those medical reports and you saw that neither Sharon nor Karen suffered any physical injuries?

A. Tremendously.

Q. Would you have called the doctor ...

A. We were ... yes. We weren't aware there had been an examination.

Q. O.K. And obviously with Sharon her hymen being intact that's ... that would highly discredit Sharon's testimony, correct?

A. It would go some distance, not completely. But it's anything ... any port in the storm when you have as little as we had to work with.

Q. So you know but it would cause you to call a doctor basically?

A. Yes.

Q. All right. So the impeachment material that we've spoken about though these are obviously you need those to defend your client, right?

A. Absolutely.

Q. Cross examination you need those?

A. Effective cross examination as a defense attorney requires you to have those prior statements on hand when you making the examination.

Q. And even in 77 you were entitled to that material, right?

A. Yes.

Q. And Brady requires the district attorney to turn over those specific items, right?

A. Yes.

Q. It's not just open file discovery right?

A. No, open file I know what it means, because the file as you know Judge, changes from time to time. We might not have a report, sometimes your file is after the trial is supplemented after the trial. That's why I'm not casting dispersions, I don't know what would have been in "the file" at some time when

supposedly it was presented. I know it wasn't presented for my view. And Harold Brouillette had he seen it he would have been talking about those issues that we're talking about today.

Q. Did you ever discuss Harold Brouillette's letter with Eddie Knoll?

A. No.

Q. Have you ever discussed what we're talking about with Eddie Knoll?

A. No.

Q. Would that have been a pleasant conversation?

A. No.

Q. Did you ever discuss the letter with Tony Salario or Charles Riddle?

A. Not the letter no.

Q. Did you ever tell Charles Riddle or Tony Salario that you didn't receive discovery?

A. I didn't tell Tony that but I've told Charles that, especially recently.

Q. O.K. So you told Charles Riddle that you and Harold Brouillette didn't receive discovery in this case?

A. Right. The things that you've told me, the witness statements, the recorded statements, the use of the 'N' word, the lineup I said you know we didn't get that. He didn't argue with me. But I don't know what that means.

Q. O.K. So there was no response basically from Mr. Riddle?

A. No.

Q. How far back do you think you told Mr. Riddle about this? In passing or whatever.

A. Really I would say it's probably all within the past six months.

Q. Six months?

A. Whenever it was that you started whatever you filed and when you came to see me.

Q. Did you ever tell him back in 2004 or early 2000, did you ever speak about this case?

A. Not really. I stayed away from it.

Q. O.K.

A. Because I didn't think it was proper for me to say anything about it.

BY MR. BONUS:

Nothing further. Actually one moment, Your Honor. Nothing further Your Honor, thank you.

BY THE COURT:

Any questions of Mr. Kelly?

BY MR. MANUEL:

No, Your Honor.

INTERROGATION BY THE COURT

BY THE COURT

Q. Mr. Kelly, ...

BY MR. BONUS:

Nothing, Your Honor.

BY THE COURT:

I have a question.

BY MR. BONUS:

Oh okay.

BY THE COURT

Q. I was under the impression coming in here today that the complaint of lack of exculpatory evidence being provided to the defense as required by law only consisted of that medical report, you're telling me today and from Mr. Bonus' questions there was a great deal of potential exculpatory evidence that was not delivered in addition to that. Is that correct?

A. Based on what Mr. Bonus has told me, exists in the file.

Q. So subject to prove that those statements were taken prior to trial...

A. Yes.

Q. In the passion of the district attorney, subject to what Mr. Bonus has questioned you about ...

A. Correct.

Q. These are all items that as an attorney you believe consist of exculpatory evidence that should have been provided to the defense?

A. One hundred per cent.

Q. And was not?

A. Correct.

BY THE COURT:

O.K. Anything else of Mr. Kelly?

BY MR. BONUS:

No, sir.

BY THE COURT:

I congratulate you on your bravery.

BY MR. KELLY:

On what?

BY THE COURT:

Your bravery on your being here today and testifying.

BY MR. KELLY:

Thank you, Judge.

BY THE COURT:

Next witness, Mr. Bonus.

BY MR. BONUS:

I'd call Mr. Holmes, it think he's outside.

BY THE COURT:

Yes.

BY MR. BONUS:

Shall I get him?

BY THE COURT:

Yes please do.

BY CLERK:

Please raise your right hand. Do you swear that the testimony you're about to give in this matter is the truth, the whole truth and nothing but the truth so help you God?

BY WITNESS:

Yes I do.

BY CLERK:

Thank you, you may be seated.

BY THE COURT:

You may de-mask if you are comfortable.

BY MR. BONUS:

Mr. Holmes, if you could ... I was going to have him state his name.

BY THE COURT:

Yes.

BY MR. BONUS:

Where I'm from the clerk always asks that.

BY THE COURT:

Not here, the attorney always have them identify themselves.

BY MR. BONUS:

Got you, that's what I was getting ready to do.

BY THE COURT:

All right, very good.

BY MR. BONUS:

I'm catching on. Mr. Holmes, if you could state your name for the record please.

BY WITNESS:

My name is Allen R. Holmes.

ALLEN R. HOLMES, who after first being duly sworn, testified under oath under Direct Examination at the instance of and by counsel Mr. Justin Bonus, which testimony is as follows, to-wit:

BY MR. BONUS

Q. What is your middle name?

A. Ray.

Q. Ray?

A. Yes.

Q. Not Raymond, just Ray?

A. Just Ray.

Q. How old are you, sir?

A. I'm sixty-eight years old, I will be sixty-nine next month on the 11th.

Q. And where are you from?

A. Little place called Hickory Hill, Louisiana, five miles outside of Marksville.

Q. And what's your present occupation?

A. I'm retired now, I worked two different jobs. I worked at International Paper Company and then I went to work with Louis Berry and ... attorney Louis Berry, civil rights attorney and I was president of the NAACP and also on the State Board of the NAACP.

Q. And what's your role in Avoyelles parish in the community.

A. I received a preacher's degree back in the eighties, myself Rev. Porterie, Rev. Sampson, from Bunkie we had took night classes Louisiana College offered. And that was part of

that situation along with attorney Louis Berry who taught law at Southern University. And I was his chauffer. I'd take him on Tuesdays and Thursdays to his law class and ended up spending eight years in his law class.

Q. And do you know Judge Bennett?

A. Yes, sir. Avoyelles parish is a very small parish, I know Judge Bennett, I know the district attorney. We're all around the same age, I might be a little bit older than them.

Q. And how do you know Judge Bennett specifically?

A. Well I knew his father, I knew his father. You know Judge Bennett and I knew each other because of his father. His father was the mayor ... I mean the city judge for Marksville and then he moved up to be district judge. And we were very good friends.

Q. How long have you known Mr. Riddle?

A. I've been knowing my brother for almost forty some years.

Q. What's your relationship like with Mr. Riddle?

A. We ... his mother and we'd used to tell each other that we were brothers. And we made each other very supposedly happy with those type situations.

Q. And Mr. Holmes, you ever testified in court before?

A. Oh my God thirty-eight years in the federal court along with David Lafargue, Eddie Knoll district attorney and seventeen years with Charlie Riddle's the present district attorney. We had three federal judges; Judge Little, Judge Scott and Judge Dee Drell.

Q. And in what capacity were you involved in that federal court case? Is it the same case first of all?

A. Yes, it was the same case. Deseg cases usually run ten, fifteen, twenty, thirty years before you reach an agreement to where you ... both sides come together, well all three sides,

the federal government, the State I mean the local parish and the defendant. My part in that was that Mr. Berry, Louis Berry the attorney, he died in 1998, we went back to court because there were some filings that needed to be filed and Judge Nauman Scott asked to get a lawyer to represent myself in the court on the deseg care. I went around looking in New Orleans and Baton Rouge and came back with paperwork that showed that they wanted to charge five thousand dollars for each court appearance and we had some years, three, four, five court years. Which would have added up to a whole lot of money.

Q. O.K.

A. And so that's when Judge Nauman Scott to me that look, you represent yourself. And so we did that with David Lafargue, almost twenty years and eighteen years with Charlie Riddle.

Q. So how long did you represent yourself, was it over twenty years?

A. Thirty some years.

Q. All right.

A. And I'm not a lawyer, I don't have a law degree, I just stayed in the law class.

Q. I understand. No where near that amount of time, but ... so were you present for conversation between myself, you and Charles Riddle?

A. Yes, sir.

Q. And what was the subject of that conversation?

A. We went and got coffee in the study and you asked a question. Could have been somewhere around 11:05, 11:03. We had just filed the papers in the clerk's office downstairs. And you asked him casually you said 'Charlie, you know that they didn't present all the evidence in the Simmons case.' And he said I know. And moved on. Well you know being thirty-eight years in the federal court, and asking witness different

questions because I got a chance to ask superintendents and finance directors for the school system questions. And a light bulb went off but I didn't say anything, I just sat there real quiet. And that's set off a light bulb, that set me off to go into the courthouse and start pulling files and folders and going talk to people.

Q. And so you said that Mr. Riddle said when I asked him whether he ... that Vincent received discovery?

A. He said no.

Q. He said no.

A. He said you know and the way in which you framed it was casually.

Q. Well what did you take that to mean when he answered my question?

A. Well ...

Q. Did you misunderstand what he was saying in other words?

A. Now one of the first things I wanted to do you know that was a casual conversation because I've been knowing Charlie for a bunch of years. And so I wanted to go and start pulling the papers in the courthouse. And then start looking for jury members and looking for who were the lawyers on the case. And I found out that a very good friend of mine was the lawyer on the case. And ...

Q. Who was that friend?

A. That was retired judge from Avoyelles parish and he and Mike Kelly were the lawyers on the case, Harold Brouillette, Judge Brouillette.

BY MR. BONUS:

Your Honor, may I approach?

BY THE COURT:

Yes.

A. That's the statement.

BY MR. BONUS

Q. That's your statement?

A. Yes.

Q. If you could just read it at this point, read it.

A. Number one, I witnessed an event in the above captioned matter on October 20th, 2020 I was inside the district attorney's office with Justin Bonus. Mr. Bonus and I spoke with Charlie Riddle the district attorney, Charlie Riddle admitted to Justin that Vincent Simmons trial attorney Harold Brouillette never received the discovery file prior to the trial. I made this statement on my own free will and certified the subject to the penalty of perjury.

Q. Is that your signature there?

A. Yes.

Q. And is that statement, that affidavit is that accurate, true and accurate?

A. Yes.

BY MR. BONUS:

Your Honor, I'd move that into evidence.

BY THE COURT:

Any objection?

BY MR. MANUEL:

No objection.

BY THE COURT:

Without objection, admitted.

BY MR. BONUS:

May I approach, Your Honor?

BY THE COURT:

Yes.

BY MR. BONUS

Q. Mr. Holmes, if you could, do you recognize that document?

A. Yes, I recognize it.

Q. Could you read that in, starting at number one, in the record?

A. I am a witness to event of the above captioned matter. I reviewed the State response to Mr. Simmons supplemental memorandum of law. I also received an affidavit of Charlie Riddle. The affidavit from Mr. Riddle is untrue and the statement that response that there was any misrepresentation or inaccuracies about the recollection and the conversation between Mr. Riddle and Mr. Bonus. On October 20, precisely at 11:05 and that's the day I looked at my watch, Charlie Riddle has admitted to Mr. Bonus and I that Vincent Simmons trial attorney, Harold Brouillette, never received the discovery file prior to trial. I witnessed on to these factors, I made a statement of my own free will and certify subject to the penalty of perjury this statement is true and correct.

Q. Is that your signature on the bottom?

A. Yes, sir.

Q. Is that a true and accurate copy of your statement?

A. That is a true and accurate statement because when we left from the office I was really shocked because Mr. Howard Desselle died in 2018 and he told me about this case. And I hadn't did anything or checked on anything on this case until 2018, Mr. Howard Desselle was dying and I went to his house and he told me he said you've got to promise to me that you're going to use the NAACP to do the research and find the truth on this case. And he died in 2018 on the 23rd of November. And that stayed with me and that's what put me six months into the clerk's office downstairs.

Q. And from my conversation with Mr. Riddle, it was clear to you that Vincent Simmons' trial team did not receive the discovery in this case, is that right?

A. That made it absolutely clear.

Q. And Mr. Riddle knew that?

A. From what he indicated. And set up light bulbs in my head to the fact that I had to go and start doing some research and I went and pulled the records, looked for jury members, looked for the ... I didn't know that Judge Harold Brouillette was the lawyer, I didn't know that Mike Kelly was the lawyer and when I found out from one of the jury members she gave me a description of what happened at an eight hour trial. And she was horrified.

BY MR. BONUS:

Your Honor, I'd move Exhibit #6 into evidence.

BY THE COURT:

Without objection.

BY MR. MANUEL:

No objection, Your Honor.

BY MR. BONUS:

Nothing further, Your Honor.

BY THE COURT:

You have any questions, Mr. Manuel?

BY MR. MANUEL:

Yes, Your Honor.

CROSS EXAMINATION BY MR. DEREK MANUEL

BY MR. MANUELL

Q. Good morning, Mr. Holmes.

A. How you doing this morning.

Q. I learned something new about you this morning, you said you got a preacher's degree from Louisiana College?

A. Yeah.

Q. I'm an alumni of Louisiana College myself. I just have a few questions for you. I'm sure that appreciate the very specific ways in which words matter in issues like this.

A. Yes.

Q. You testified earlier that you were in the conversation where you were present in Mr. Riddle's office with Mr. Bonus, you said and I wrote it down Mr. Bonus said you know that they didn't present all the evidence in the Simmons case?

A. Yes.

Q. And Mr. Riddle responded I know?

A. Yes.

Q. Then Mr. Bonus asked you a follow up question where he asked you heard me ask Mr. Riddle you know that Mr. Simmons defense attorneys didn't get discovery before trial and then you said you heard that?

A. Right.

Q. But those are two different questions aren't they?

A. Well they were worded differently. But that actually was same thing.

Q. Well not really though. One is you know that they didn't present all the evidence in the Simmons case; the other one was you know that they didn't get discovery in the Simmons case? Now was there one question or were there a series of questions?

A. There was one question, you know, there was some conversation before we went into the coffee room where some statement was made by Mr. Riddle and we went into the coffee room and took a seat, and I want you to know I'd just met Mr. Bonus. And he wanted me to take him to the DA's office and I obliged to do that. Now I was sitting there quiet listening, didn't participate to try to convince anybody of anything. My

only purpose was to be there to show him where the district attorney's office was. That basically was ... that's what it was. But I sat there and I listened and I made notes in my mind at 11:05 and I just sat back and I said ... and that's what sent me on to talk to Ms. Prater in Cottonport and then back to going and meet with Mike Kelly and talking to them. Because a light bulb went off in my head.

Q. Sure.

A. That you've been in the court system for thirty-eight years and something just don't match.

Q. O.K. So Rev. Holmes, let me ask you you said that obviously the discussion was longer than that question.

A. Yeah.

Q. Were there other specific questions that were asked about discovery, were there specific statements that were made about specific items of discovery?

A. One statement that was made which was horrified ... horrifying to me was the discussion between Mr. Bonus. And I want you to know I had just met him a couple of weeks before but when my good friend Mr. Riddle said you know there's some public hair to those girls. And I'm like oh my God.

Q. And that was discussed at this meeting?

A. Yes. And look being around the court if you don't do a DNA on the subject or anything you know, people could say that you know I could fly an airplane, I can't fly an airplane. But without DNA testing you just don't make those statements.

Q. O.K. But my question is did Mr. Bonus ask Mr. Riddle if he knew that Vincent Simmons' lawyers did not receive discovery or was it as you said the first time you know that they didn't present all the evidence in the Simmons case? Which question was it?

A. It would be they did not present all the evidence in that case.

Q. There wasn't ... thank you. It was not your understanding that Mr. Riddle was admitting that no discovery was received?

A. From the statement that he was making it was that there wasn't no discovery given to Harold Brouillette and Mike Kelly.

Q. So your understanding was that Harold Brouillette and Mike Kelly did not receive discovery, not that they didn't receive all the discovery they may have been entitled to but that they didn't receive discovery period?

A. Well my understanding and you have two statements there and which is kind of that when he said ... he asked him politely did they receive evidence material in this case. And Charlie politely said I know, no. That's basically what it was. And remember this is October 2020 and that ... you know.

Q. Yes Rev. Holmes, I know it was October 2020 are you saying that you don't ... are you saying that because you don't remember all of the specific details of the conversation as well right now or ...

A. I remember the statement.

Q. O.K. Because your affidavit was written in October of 2020 and in your affidavit number four you said Charlie Riddle ... I'm sorry, Charles Riddle admitted to Mr. Bonus and I that Vincent Simmons trial attorney Harold Brouillette never received the discovery file prior to trial. So I'm trying to nail down exactly what was said because ...

BY MR. BONUS:

Objection, Your Honor. I mean this has been asked and answered probably about five times.

And I mean it was six months ago the affidavit is

not a verbatim ... it's not a verbatim quote.

BY THE COURT:

Let me stop it now with something that just came to my mind. Regardless of what Mr. Riddle said or didn't say, the issue appears to be to me what does the district attorney's file show or not show that was divulged to the defense counsel at the time.

BY MR. BONUS:

Correct.

BY THE COURT:

And if ... it doesn't matter what he said to Rev. Holmes but if the file does that make the district attorney or members of his staff a potential witness on the issue of failure to provide exculpatory evidence, regardless of what he said. So I think we're chasing our tail here as to what Rev. Holmes recalls, what Mr. Riddle recalls. Mr. Manuel, to me and I just wrote this down after hearing Rev. Holmes' testimony. If the district attorney's office's review of the file concludes that discovery and/or exculpatory evidence was or was not provided, does that in and of itself make the district attorney and/or his associates a potential witness. That's something I never considered until during this testimony, regardless of what Mr. Riddle stated or did not state. If you right now reviewed that file, would you have that file, the State vs. Vincent Simmons file at the district attorney's office and you conclude that discovery and/or exculpatory evidence that the law was or was not

complied with Brady versus Maryland, does that make you a witness? That's the issue. And if it does, then you have to be recused. It's as simple as that.

BY MR. MANUEL:

And Your Honor, I don't disagree with you that that's potentially an issue, that's not the issue that Mr. Bonus raised in his motion though.

BY THE COURT:

But it is because the motion is not based solely on the motion ... is not based solely on the conversation between Mr. Bonus, Mr. Riddle, and Rev. Holmes. It's based on ... and especially considering the testimony of Mr. Kelly, it's based on what the district attorney's file has or doesn't have. And of course Mr. Riddle wasn't district attorney in 1977 so what happened, what the district attorney's office did in 1977 is not personal as to Mr. Riddle, but as district attorney the keeper of the file does that make you a witness, okay. You have the testimony of Mr. Kelly as to what was not given and Mr. Bonus has told him has now been produced. So if in the post-conviction relief application that a central issue is in your file, does that make you a witness, regardless of what Mr. Riddle told Rev. Holmes of didn't tell Rev. Holmes.

BY MR. BONUS:

I don't think that's very important right here...

BY MR. MANUEL:

Your Honor, I would argue that it does not make the district attorney or the DA's office a witness as to ... it would be as to the DA or the DA's office mental impressions of or conclusions about a file from the previous DA's administration..

BY THE COURT:

No, but if the file reflects on such and such a date this was provided to the defendant such and such a day, or it doesn't reflect anything. Let's say the file you know was filed today and there's nothing in there about anything being given to the defense. Does that mean it wasn't given, not necessarily. But is that a fact to be considered in the claim and post-conviction relief of the failure to provide exculpatory evidence, it's a factor but that's not what makes you a witness. I think this whole issue about what was or was not said because Mr. Riddle clearly cannot be held to what happened in 1977, he wasn't the DA. But the question to me is can the current district attorney's staff be held for what's in that file as a witness, that's the question you're going to answer to me when this is all said and done. You know, I've been looking at cases while we've been doing this and that's an essential ... that's the question to me on the recusal.

Yes, sir, Mr. Bonus?

BY MR. BONUS:

And I wanted to bring up this point. Why argument that Mr. Riddle is not interested is why

are we not consenting to (UNINTELLIGIBLE) why.

If he ... I understand ...

BY MR. MANUEL:

But that's...

BY THE COURT:

Let's not get into that. As you quoted in your motion the district attorney's job is to seek justice not simply to prosecute people, okay. If ... it is not ... that he is not responsible for then, it is clearly indicated that no discovery not total discovery and/or exculpatory evidence was provided for the defense, he has a duty to divulge that may make him a witness. So all of this testimony by Rev. Holmes about what Mr. Riddle said or did not say is not going to answer the ultimate question in my opinion. The ultimate question is ... and it's not Mr. Riddle personally. It has nothing to do with him personally. But you or Mr. Salaro or any assistant DA, what it has to do with is if you're in possession of evidence that that goes to the issue before the court in the post-conviction relief application does that make you a witness. I believe the answer to that is obvious but I'm going to give you the opportunity to convince me otherwise. Did I think that coming in here this morning, absolutely not. But I wrote this down, I wrote down if district attorney's review of file concludes that discovery and/or exculpatory evidence was not provided or was provided does that make you a witness in that post-conviction relief

application. That is the issue. Not what was said or not said. And it's not personal to Mr. Riddle or to anybody. It's to me whoever the DA, if Mr. Riddle was not DA today, whoever the DA was and they have the file and they can answer the question, was discover and/or exculpatory evidence provided to the defendant, does that make you a witness. Had Mr. Kelly and unfortunately Judge Brouillette is not with us, had Mr. Kelly unfortunately could not be with us also, who can provide that evidence. Only the district attorney's file can.

BY MR. MANUEL:

That's correct, Your Honor. But only the ...

BY THE COURT:

Does that make you a witness?

BY MR. MANUEL:

I don't think it does.

BY THE COURT:

Well you're going to have to answer that with some legal authority. I mean that's the question. And again in preparing for today, that was not in my mind. And we've spoken about the recusal motion that was not in my mind. But what is it in my mind now is in any case, not just Mr. Simmons, in any case where a defendant on a post-conviction relief application is claiming hey, the prosecutor didn't give me what he was supposed to give me, does that make the current prosecutor a witness because he had potentially the answer in his hand. And if it was not given and it was supposed to, that's a Brady violation.

So to me that's ... that solves everything. But again I can try to simplify things sometimes too much. But that to me is the issue in any case, not just Mr. Simmons. And this is raise in post-conviction, okay.

BY MR. MANUEL:

Yes, Your Honor.

BY THE COURT:

Because Mr. Kelly has testified quite credibly that based on what Mr. Bonus has told him was divulged and you look at that 1994 transcript what I just glanced through, there are some stuff in there in just glancing I was not aware of. If that stuff is correct and the district attorney's file does not indicate otherwise there's a problem. So you either are a witness for or against failure to provide exculpatory evidence and proper discovery. It appears to be simple.

Again, but if you want to question Rev. Holmes further cross examine, that's fine but I'm going to tell you ...

BY MR. MANUEL:

No Your Honor, I think ...

BY THE COURT:

I'm going to tell you based on my ... what was said between Rev. Holmes and Mr. Riddle and Mr. Bonus about what Mr. Riddle said is not really important. It's not. Mr. Riddle today could say I said it or didn't say it, it was given, was not given, the question is I think your witness is what's in your file, not what he said.

BY MR. MANUEL:

Thank you, Your Honor.

BY THE COURT:

Any other questions?

BY MR. MANUEL:

No.

BY THE COURT:

Based on that Mr. Bonus, any re-direct of
Rev. Holmes?

BY MR. BONUS:

Just one question.

BY THE COURT:

Proceed.

RE-DIRECT EXAMINATION BY MR. JUSTIN BONUS

BY MR. BONUS

Q. From our conversation, me, Mr. Riddle and you sitting there listening, ultimately was it your understanding that Mr. Riddle admitted that Mike Kelly and Harold Brouillette didn't get discovery in this case?

A. That was the assumption that I made.

Q. That's what you got?

A. Yes.

BY MR. BONUS:

Nothing further.

BY THE COURT:

Thank you. Is he released? He's released from the rule of sequestration?

BY MR. BONUS:

I have no other witnesses, Your Honor.

BY THE COURT:

Is he released from the rule?

BY MR. MANUEL:

Yes, Your Honor.

BY THE COURT:

You can remain in the courtroom.

BY REV. HOLMES;

Thank you, Your Honor.

BY THE COURT:

No other evidence for Mr. Simmons, any evidence for the district attorney?

BY MR. MANUEL:

Yes, Your Honor, I'll call Charles Riddle.

BY THE COURT:

All right, Mr. Riddle come forth.

BY CLERK:

Raise your right hand. Do you swear the testimony you're about to give in this matter is the truth, the whole truth and nothing but the truth so help you God?

BY WITNESS:

Yes I do.

BY CLERK:

Thank you, you maybe seated.

BY MR. MANUEL:

Mr. Riddle, please state your full name for the record.

BY WITNESS:

Charles Addison Riddle, III.

CHARLES ADDISON RIDDLE, III
who after first being duly
sworn testified under oath
under Direct Examination at
the instance of and by
counsel Mr. Derek Manuel
which testimony is as
follows, to-wit:

BY MR. MANUEL

Q. And how old are you?

A. I'll be 66 next month, about three days before Allen turns 69.

BY THE COURT:

And 8 days before I turn 66.

A. Yes.

BY MR. MANUEL

Q. And you're the district attorney of Avoyelles parish?

A. Yes.

Q. How long have you been in that role?

A. January 13, 2003.

Q. You are generally aware of the history of the Vincent Simmons case at least since you came into office?

A. Yes.

Q. And we're here today on a motion to recuse the district attorney's office from further post-conviction relief consideration of the case. And the motion has been somewhat enlarged and our focus has been kind of redirected but the motion was based on conversation that happened between yourself, counsel Justin Bonus and Allen Holmes that occurred on October 20, 2020, correct?

A. Correct.

Q. And ...

A. And the other things that have come up as Judge Bennett stated.

Q. And you were present for that conversation?

A. Yes.

Q. Do you recall that conversation?

A. Yeah, it was quite lengthy and I had coffee, I think Mr. Holmes might have had coffee too.

Q. When you say it was quite lengthy do you recall about how long it lasted?

A. No, not really. The original intent was for a delivery of the file or whatever filing Mr. Bonus was going to file. In fact, I think Allen had called me to set up the meeting I said yeah, ya'll come now. And we sat in what we call the copy room which is where the copying machines is, the postage meter and the coffee and he handed me a stack of stuff that he's filed. And we just started talking about the case in general, and he started actually talking about some of the merits of the case, Mr. Bonus did.

BY MR. BONUS:

Mr. Riddle, if you could just speak up a little bit.

BY MR. RIDDLE:

Sure, I'll talk louder.

BY MR. BONUS:

I apologize.

BY MR. MANUEL

Q. Mr. Riddle, at some point, did Mr. Bonus make assertions to you or ask questions of you about whether discovery was provided to Vincent Simmons or about whether specific items of discovery were provided?

A. He brought up a lot of issues.

Q. O.K. what...

A. Including ... including items of discovery, okay. And of course as Judge Bennett said I was in law school and I don't have any direct knowledge of what was actually provided by then district attorney, and we discussed that at length. He talked about things and I kept bringing up all of this had been brought up in over fifteen motions that have been filed in the past. Including when he said some of the ... I don't even remember the exact words he said, well you know that some discovery has not been brought up and my answer as Mr. Holmes said I know, was in

reference to the fact that's been brought up countless times. I think there's a total of twenty-eight decisions by this court, the appellate court and the Louisiana Supreme Court and the Federal Fifth Circuit on these same issues that are being brought up today. And personally I do not know what was actually given to Mr. Kelly and to Judge Brouillette, I do know that in our file everything that they have claimed has not been given to them has been given since in all of these motions beginning in 1980. And 1994 was a big one where a lot of the stuff that they are bringing up today was actually given to them. And as Mr. Kelly said we tried to avoid talking about the case, and it wasn't until Mr. Bonus got involved in the case that he actually brought it up to me ...

Q. And that was after Mr. Kelly retired?

A. Oh yeah, that was within the last few months. I don't know if we were riding bikes or ... well we weren't running because I haven't run since the election. But we discussed it very generally and I brought up the doctor's report, that Dr. ... that Judge Brouillette because that seemed to be a big one, and we talked about things, slightest penetration and all that kind of stuff. But just not specifics because Mr. Kelly was very good about staying out of the case while he was an assistant district attorney. We made that very clear because I think there was a filing in 2003 right after I took office and at that time I discussed with Mr. Kelly and he brought up he said he's got to stay out of it. And it was at that time that Mr. Salario became involved as the ADA who handled the case. Not talking to Mr. Kelly was crucial, okay, and so when the judge brings up the issue of the fact of what we know, what I do know is that in every motion that has been denied on every court that has been brought before all of these issues that are being brought up now were brought up before. So the question is much more whether I

have knowledge of discovery not being presented or not but whether it has been brought up as an issue before. That ... Judge Bennett would not be aware of. He's not aware that there's been fifteen ...

BY MR. BONUS:

...specific as to what you're aware of...

BY THE COURT:

I'll make note that I'm not aware of ... but I'm going to ask those questions when I have the opportunity but that objection is noted and is legally correct and sound and we're going to get to that but I was not aware of that. You may continue.

BY MR. MANUEL

Q. Mr. Riddle, in the conversation of October 20th, you said Mr. Bonus raised numerous issues with you, specifically with regard to items of evidence, items of discovery, exculpatory evidence that he alleges were not turned over to Mr. Simmons, was any of that shocking to you or new?

A. It wasn't ... no was not shocking to me at all. I know, I know it had been brought up multiple times.

Q. All of those issues that he raised..

A. Every issue that he raised, including what he refers to as the lineup picture, which is not a lineup picture but that's going to be handled at another time. Including that was brought up.

Q. And when you say all of those issues had been raised not just to you but those issues had been raised before the court and ruled upon, correct?

A. Correct, and in the previous administration.

Q. O.K. Anything else?

A. That's it.

BY MR. MANUEL:

Thank you, Mr. Riddle.

BY THE COURT:

All right. Mr. Bonus?

CROSS EXAMINATION BY MR. JUSTIN BONUS

BY MR. BONUS

Q. Good morning, Mr. Riddle.

A. Good morning.

Q. You're really familiar with how all of the issues have been raised, aren't you? You just said you're very familiar with the file, right?

A. I'm familiar with the file to the extent that we've had the post-conviction relief, yes.

Q. You're very certain as to what's been raised?

A. No, no not very certain as to what's been raised in every one of these no I'm not. I read the transcript, I read Dr. FP's report and I've looked at some of the post-conviction relief.

Q. So you read the transcript and you've read the reports?

A. Yes.

Q. Doctor's reports?

BY THE COURT:

Which transcripts?

A. The original transcript, the trial transcript.

BY THE COURT:

All right.

A. Because there were some allegations about that book talking about what was said and nobody mentioned certain witnesses that testified and I wanted to see for myself.

BY THE COURT:

Yes, sir.

BY MR. BONUS

Q. And it's clear that no one every brought ... called the doctor in this case, correct?

A. I don't know if anybody ... no.

Q. You read ... you said you read the transcript?

A. Yes. That doctor was not called.

Q. No (INAUDIBLE) hearing in this case, right?

A. Not that I know, I didn't ...

Q. No probable cause cause...

A. I didn't look at all the filings during the trial.

Q. Well you just said you read the transcripts.

A. I read the transcript, the transcript of the trial to look at what the witnesses said because there were questions about what the girls said and what Keith Laborde said. And it only mentions, nobody would ever talk about what Keith Laborde testified to.

Q. And did you look at the transcripts in comparison to the discovery file?

A. No.

Q. Are you aware that your office answered a Mandamus in 1993?

A. You mean the previous administration, yes. Yep, they sure did.

Q. Just let us know what you're looking at.

A. This is a history of filed pleadings of Vincent Simmons dating from July 28th, 1980 through the Supreme Court, Louisiana Supreme Court in 1995 and ... I'm sorry. The last one that we had was 2017, July 25th. They're just a list of all the things.

Q. So you're aware that certain ... well essentially the discovery file was turned over by Eddie Knoll's administration in 1993?

A. Whatever files he gave or whatever he gave was this stuff.

Q. Are you aware that there was a contradictory hearing in 1994?

A. Yes, I think there was.

Q. And are you aware that Mr. Simmons filed a motion under your post-conviction statute, Louisiana Post-Conviction Statute in 1994, right after he got the discovery in 1993?

A. Motion and Order for Writ of Habeas Corpus and Uniform Application for Post-Conviction Relief, both of those were filed in 1994.

Q. And are you aware that that motion was summarily denied without anyone hearing the merits on that motion?

A. Yes and affirmed by the supreme court.

Q. No one has ever heard the merits on he claims that Michael Kelly just testified to, correct?

A. I don't think there was a merit hearing, correct for various legal reasons.

Q. All right. There was never a merit hearing, in 1996 I think it was the Third Circuit denied it under 930.8, isn't that correct? You can look at your procedural list right there.

A. I'm just looking at the July 9, 1996 Motion to Quash or Petition for Writ of Habeas Corpus.

Q. That's something Whitley or something ... with it?

A. OK. Whitley would have been the warden of Angola at the time.

Q. He was the warden. So ... but anyway it was denied, it was affirmed by the appellate division?

A. Yeah whatever the decision was, yeah.

Q. It said there was no ...

A. I know that none have been granted by the courts.

Q. There was no decision on the merits with regard to Mr. Simmons' motion in 1994?

A. You mean no hearing on the merits, there's a big difference.

Q. Is either ... the only way you get to the merits is with a hearing, Mr. Riddle, are you aware of that?

A. Yeah, you can't have a hearing on the merits without having a hearing on the merits, I agree with that.

Q. So you ...

A. But if they deny his right to have that hearing, it was denied.

Q. So he was procedurally barred under 930.8?

A. Yes.

Q. So there was no hearing on the merits?

A. Correct.

Q. Do you know if your office even responded to that motion?

A. You're talking about before I took office no I'm not aware.

Q. Well you reviewed the file, you're certain about how many filings he made and decisions...

A. I know how many filings have been made because I have the list of those filings. I have not reviewed all of them. They're all public record and you have a complete copy of those. And the judge will too.

Q. O.K. Just going back to Mr. Holmes and my conversation with you, I guess Mr. Holmes was watching, you don't dispute we had one, right?

A. No not at all.

Q. O.K. And we definitely had a conversation, again this is up to your interpretation, but we definitely had a conversation about the discovery issues in this case?

A. Yes, some of them.

Q. And your position is you said I know that these are issues ...

A. I said I know, that was my response. And Mr. Holmes is correct when he first said that, my response was I know. Because you asked repeated ... repetitive questions and I kept telling you all this has been discovered before.

Q. You didn't think I would have known that if I'd filed the motion?

A. I have no idea what you knew about since 1980. Obviously because some of them have been heard before.

Q. So are you aware of in ... so I think it was with regard to ... we'll get to that in a second. Do you dispute the fact that you discussed allegedly a pubic hair that was sent...

A. Yeah I brought that up and you made it public. I don't know why you would have done that, I just brought that up to just let you know things that had been going on; and the fact I had been in touch with the victims in the case.

Q. So you're aware though that Vincent's mail was screened at Angola?

A. No I'm not aware of that.

Q. You're not aware of that?

A. That's their policy yes.

Q. O.K. So you are aware of that?

A. I'm aware that that's their policy, your question was whether I was aware that his mail was screened. I can't tell you affirmatively that that particular piece of mail was screened.

Q. So then their policy is to screen mail of inmates but you're not aware of where ... is he special?

A. I have no idea. Are you suggesting that no inmate can ever mail anything without it ever ... without it being screened, that they never made a mistake?

Q. Did you DNA test it?

A. No we didn't, we decided not to do that because we didn't think it was that relevant.

Q. And are you aware of the fact that inmates that have been accused of violent crimes against victims they don't have access to victim's addresses, you're aware of that though, right?

A. You're joking, correct?

Q. No I'm not.

A. You know inmates have addresses believe me, they have cell phones in prisons, they find them everyday. And they find peoples addresses because they able to access internet in many cases.

Q. But you don't have any proof this actually happened?

A. No, I'm trying to tell you, you're the one who keeps bringing it up. I just talked to ya'll privately about that and you made it public.

Q. Well no, I ... I ... I didn't make it public, you brought it up to me when I ...

BY THE COURT:

Ask the question and answer the question...

A. I discussed it with you ...

BY THE COURT:

Let him answer, no arguing, question and answer.

BY MR. BONUS

Q. Why did bring it up in the middle of when I filed ... when I was bringing the motion?

A. You don't remember how many things we talked about, about the entire case? We talked, and we talked and we talked and you kept ... well actually you got kind of loud you got kind of pumped up and excited like you were in the courtroom. You even stood up and I understood that and I kept bringing up things that I knew about the case. But again no, I don't know about every motion that has been filed. But I do know that they have been filed and every piece of evidence you're talking about and all the testimony that you have been taking about has been brought up in previous filings.

Q. You went to ... what's your relationship with the Laborde's?

A. Which Laborde's?

Q. Susan, Keith, John Laborde?

A. I knew their father and mother really well. The father worked at the assessor's office, Keith was a singer in a band in a play we had in 2009 that sang a Cajun rap song.

Q. You shared that on your You Tube, right?

A. Yeah, absolutely. I promoted the play a lot.

Q. I think did they play at your wedding?

A. No, no.

Q. You never hired the ... I don't know, is it the Cypress City Band?

A. Cypress City Band, no I never hired them and they actually performed in the play like everybody else for free in 2009.

Q. And Susan are you friends with her on Facebook?

A. Yeah, friends with ten thousand different people. And they love to bring it up when they come to the DA's office, I'm friends with them on Facebook.

Q. I stop with the Facebook stuff, I don't do it. Let me ask you one other question that maybe you don't remember because it's been six months, well it's been more than that at this point. But do you remember commenting on your understanding that the relationships ... the relationship that Kerri had with her family, Kerri Laborde had with her family?

A. Yeah we talked about that.

Q. That she couldn't be trusted?

A. And you said that she couldn't be trusted?

Q. I'm asking you, do you recall saying she couldn't be trusted?

A. I believe that. And I probably said it then and I say it today.

Q. Since our conversation you've been aware that members of her family have been harassing her, right?

A. No, I'm not aware that they've been harassing her.

Q. Did you remember getting tagged by Kerri on Facebook?

A. Oh Kerri sends me a lot of stuff on Facebook and I have no idea where it comes from.

Q. And you told her you couldn't help her and that...

A. Wait, wait hold up no, no. I didn't tell her I couldn't help her. I told her this is how I would help. By telling her that is she has a criminal charge, she's got to go to the police department and file a criminal charge, which is what I tell everybody. People tend to think that the DA's office is the originator of criminal charges. Like you said at the beginning when you gave your argument that if you were on this side that you would have filed charges, it doesn't work like that. You go to a police department, law enforcement, they take the charge, I prosecute. And I explained that to her and that wasn't the first time I've ever explained that to her.

Q. I don't know that.

A. She's been a victim also.

Q. Are you familiar with safe house law? I might be saying it wrong, is it safe house it's Article 46 I think.

BY THE COURT:

That's the domestic violence ...

A. Oh yes, very familiar with that. In fact we actually give an office to Faith House, Faith House is what you're saying.

Q. Yes.

A. And they handle Title 46.

Q. Mitzi ...

BY THE COURT:

Mitzi Smith.

BY MR. BONUS

Q. There you go, that's it.

A. That's it.

Q. Did you tell Kerri to go to Mitzi?

A. I don't remember specifically but I've told a lot of people and I probably would have told her that if she felt like a family member was harassing her she should go and file what we call a Title 46.

Q. You did tell her that on Facebook though?

A. I don't remember. If I did again, I get Facebook messages ... Judge Bennett thinks I ought to get off of Facebook because I'm constantly answering Facebook messages.

Q. And do you recall getting notification back on March 19th of 2021 of Kerri's allegations about her father?

A. Notification from whom, I remember something.

Q. You know what, I could give you something to refresh your memory.

A. O.K., fine.

BY MR. BONUS:

May I approach?

BY THE COURT:

Yes.

BY MR. BONUS

Q. Do you ...

A. Yeah the letter from you.

Q. And that is a true and accurate copy of a letter your received?

A. Yes. I don't know ...

BY MR. BONUS:

Your Honor, I'd move ...

A. Did you send me the video taped statement also?

Q. I sent it to you by mail and by email.

A. So there's a DVD or something on it?

Q. Yes.

A. O.K.

Q. And maybe it was Google linked, it might have been a Google drive link, so I don't know if you could open or not. Because ...

A. Sometimes I can open Google drives, sometimes I can't.

BY MR. BONUS:

Your Honor, I'd move that into evidence.

BY THE COURT:

Any objection?

BY MR. MANUEL:

No, Your Honor.

BY THE COURT:

All right, without objection. (Motion to Recuse D.A. #7)

BY MR. BONUS

Q. Do you never listened to the audio recording?

A. No I did not.

Q. Did you call Keri up about this?

A. No, no.

Q. All right.

A. Again when somebody has a problem with a criminal matter they should go to law enforcement, the agency that...

Q. So you don't ...

A. We don't ...

Q. You're aware...

A. ... take charges.

Q. ... of the issues that Kerri has with her father, correct?

A. I'm aware of a lot of the issues that they have against each other, yes.

Q. Don't you think it's pretty sensitive when somebody says somebody raped them, that you should have law enforcement go to them and ask them what's the problem?

A. She should ...

Q. Isn't that one of your jobs as a prosecutor?

A. No. One of my jobs is to inform them to go to law enforcement.

Q. So you're going to dismiss everything that's said and tell them to go to law enforcement? I'll rephrase it like this, if your son came to you and said that he was beaten up and he was afraid to go to the police, you would just not get the police involved?

A. I would drive him to the police, he's my son. I'm not going drive every victim to the police department.

Q. So you treated Kerri Laborde differently than your son, right?

A. Absolutely, yeah.

Q. O.K.

A. I would take a special interest in my son and not get involved in the investigation of an individual police then I'd have to recuse myself, as I would if my son was a victim, but not if Kerri is a victim. In fact she's been a victim and we've prosecuted people who have victimized her.

Q. But isn't it your duty as a quasi-judicial officer to decide ...

A. Like I told Kerri, go to the police department, file charges.

Q. Do you communicate with the police often?

A. Yeah.

Q. Do you tell them to go interview witnesses?

A. When we get a case and they haven't interviewed witnesses that we believe should be occurring, we ask them to go interview them, yes.

Q. So then you didn't believe that Kerri should be heard?

A. There was no charge filed, we don't have a file. You're mistaken on how the district attorney's office works in this State.

Q. No I'm aware. So you are aware that rape victims are ... they're sensitive victims?

A. Sure absolutely, we have a special victim section in our office to be able to handle that and a special victim's person who takes care of those things.

Q. So you don't think you could have done anything more to help Kerri Laborde?

A. If Kerri doesn't want to file charges there's not much I can do.

Q. Are you aware that she's afraid of members of the Avoyelles parish sheriff's office and the Marksville Police Department?

A. No I'm not aware of that.

Q. Did you ever call her up, did you ever have a detective call her up or anybody call her up to check on her?

BY MR. MANUEL:

Objection, asked and answered.

A. And just ...

BY THE COURT:

That's sustained. That would be the first ...

BY MR. BONUS:

Thank you, Your Honor.

Q. You're familiar with Mike Kelly and Harold Brouillette, correct?

A. Absolutely, I have high respect for both of them as great attorneys.

Q. So...

A. And a judge, one of them was a judge.

Q. So I found out.

A. Yeah.

Q. Are you ... you're aware of this letter that Harold Brouillette wrote in 1998 correct?

A. Yes.

Q. You saw Laurie White's 2004 filing, right?

A. Oh yes.

Q. And your office still opposed Vincent Simmons' motion on procedural grounds, right?

A. Yes.

Q. And your office also in that motion to oppose on procedural grounds never ad... never alleged that Vincent's trial attorneys had the discovery file, correct?

A. No, I can't answer that. Other than what...

Q. But you still opposed on procedural grounds?

A. Yes we opposed his motions on procedural grounds, that is correct.

Q. Are you aware that in the interest of justice a court can hear any motion that's been heard before?

A. Sure, yes as long as we don't object to it.

Q. So why wouldn't your office allow Vincent to come into court...

A. I'll explain it this way, Mr. Bonus.

Q. Please do.

A. When I have to make a decision that involves the interest of justice, I have to look at all the factors, including the victims, and what they would have to go through.

Q. The victims rights trumps due process for a defendant?

A. Wait, whoa, whoa, whoa, your talking about procedural grounds. You asked me about procedural grounds and whether I should overlook that.

Q. I'm asking you about ...

A. Yeah I think that victims rights are important absolutely, yes. And I have to make those decisions when we oppose motions that are made.

Q. So when you speak to the victims, do you then go look at the discovery? Did you ever look at the discovery after talking to the victims in this case?

A. When you say look at the discovery you're talking about whether there was a formal discovery filed or something like that, is that what you're talking about? Because I don't know what Mr. Knoll gave to them other than what Mr. Kelly said recently to me.

Q. So for forty... for twenty years you didn't look at the file at all?

A. Oh my goodness.

Q. You copied it and gave it to me didn't you?

A. I've told you that when I first got elected I looked at the trial transcript and since Mr. Salaro has been handling

this he is the one most involved in that, but he does discuss it with me.

Q. O.K.

A. O.K. We've discussed the issues and whether they were relevant or not. And there is no new evidence that you're bringing up that hasn't been discussed in previous motions. Yes they were defeated on procedural grounds, that is a correct statement. There was a lot more to this case than just the alleged attempted rapes, as you well know.

Q. Oh I'm aware.

A. And none of those can be tried again today because of prescription. So when you talk about the interest of justice I looked at all of the factors.

BY MR. BONUS:

Your Honor, can we take a moment because Mr. Simmons has to go to the bathroom?

BY THE COURT:

Sure. Take a short recess.

BY MR. BONUS:

I'm sorry.

BY MR. RIDDLE:

No, that's okay I was going to ask the judge myself.

BY MR. BONUS:

Just take a break in maybe five or ten.

BY THE COURT:

Sure.

RECESS - RESUMED

BY THE COURT:

You ready, Mr. Bonus?

BY MR. BONUS:

Yes I am.

BY THE COURT:

All right. We're back on the record State versus Vincent Simmons continuing your cross examination of Mr. Riddle.

BY MR. BONUS

Q. Yes or no Mr. Riddle, in 2004 you were aware that Laurie White filed a motion on behalf of Mr. Simmons?

A. Yes, I think it was Laurie White.

Q. And she alleged much of the same things that I alleged, with regard to the discovery?

A. Correct.

Q. Obviously my motion, there's more affidavits and things like that but specifically with regard to discovery she said the same things?

A. Yes.

Q. And your office responded again with the position of a procedural bar, right?

A. Yes.

Q. Isn't it your duty as a prosecutor to explore whether that discovery was turned over or not just dismiss it on procedural grounds?

A. It's my duty to look at every case to see whether justice is served or not, yes.

Q. So specifically with regard to this, where your office disclosed for the first time in December of 1993 an entire discovery file, isn't it your duty then to let Mr. Simmons proceed to get his day in court, isn't that your duty?

A. I believe he had his day in court.

Q. That's not what?

A. I believe he had his day in court when the motion was denied and the writ was ultimately denied by the supreme court.

Q. You knew Harold Brouillette, didn't you?

A. Yes I had a lot of respect for him.

Q. You respected him?

A. Very much.

Q. O.K. So you respected him as an attorney and as a judge?

A. Both.

Q. How about Mike Kelly?

A. Very much.

Q. Trusted first assistant, right?

A. Absolutely.

Q. You knew that Mike Kelly was co-counsel with Harold Brouillette, right?

A. Yes.

Q. And in 2004 at the very least you knew that Harold Brouillette had written a letter in 1998 saying that at the very least that they didn't get medical records, right?

A. I think that that is when I first became aware of it and ...

Q. So in 2004 you became aware of this?

A. Yeah, I was in office for about a year.

Q. And you didn't speak to Michael Kelly about the fact that Harold Brouillette made this allegation?

A. Again, during that time period while Mike was first assistant we avoided other than who did he think or who did I think should be the person handling it instead of him. Because normally he would have handled those cases.

Q. Would you have ... you didn't tell Laurie White hey you should talk to Mike Kelly in my office, he might know something, did you?

A. No, because Mike and I didn't talk about what he knew or didn't know.

Q. But you knew that Harold Brouillette had written a letter in 1998 that he didn't get discovery, so you thought that that ...

A. But he didn't ... I think if I'm not mistaken that letter was referring to a specific item of discovery, the doctor's report. And at the end he talked about how his report was a little bit different and maybe it wouldn't have been as good as he had thought, because slightest penetration and it was attempted rape, not aggravated rape.

Q. But you already knew he had said that Harold ...

A. That he didn't have it, yes. I knew that.

Q. All right.

A. I knew that Harold had said he didn't have it, yes.

Q. And what measures did you take, you specifically did you take in your office to ensure that Mike Kelly wasn't involved in the discussions in this case?

A. Mike is one of the most ethical attorneys I've ever met, okay. And he made sure that he stayed away from it. He would sometimes say things like well I wish I could be involved you know to let us know more. But until after he retired he didn't go into any ... and it wasn't much of a detail, but he didn't go into much detail until after he retired.

q. And so you knew that he was ... obviously Mike Kelly is utmost integrity and honest, right?

A. Yeah.

Q. And you knew that he would have told you the truth about the discovery file, right?

A. I knew that he would have told me the truth as much as he would have known.

Q. O.K. And don't you think it would have done some justice for Vincent Simmons to get to the bottom of whether Mike Kelly had any discovery in this case?

A. Again, I have to make decisions based upon what I am faced with. I was aware of other crimes that he had committed and I made the decision that we would continue to proceed procedurally if we could deny it that we would deny it or that the courts would ultimately deny it.

Q. It didn't matter that the attorneys at trial didn't get to the statements of the witnesses, right, it didn't matter about that right?

A. I didn't know that, okay. And when it was brought up then the courts felt like that wasn't important enough for whatever reason.

Q. Never heard from his lawyers though, right?

A. Say that again.

Q. But the courts never heard from his lawyers, correct?

A. You mean Mike Kelly and Brouillette?

Q. Mike Kelly and Harold Brouillette?

A. No, they heard from the lawyers that were filing the writs.

Q. And who was it, Mark Jeansonne heard the motion?

A. In 2004 it would have been Mark Jeansonne.

Q. You were aware of some of the statements that Mark Jeansonne has made in this case in court and outside of court?

A. I am aware of some of the statements that you said he made and some of the statements that he actually made, yes.

Q. O.K. So you are aware in 2014 that Mark Jeansonne brought up allegations on the record in 2014 about the photo of the lineup wasn't actually a photo of the lineup, that he spoke to police. Are you aware of that?

A. No I'm not aware of that specific statement. But I do know that the photo you're referring to was not the photo lineup.

Q. You do ... you are aware of the fact that there were multiple police reports from Barbara Lacour and Robert Laborde...

A. Um hum...

Q. That that is a photo lineup, are you aware of that?

A. No, I talked to Robert Laborde myself at the very beginning...

Q. I want ...

BY THE COURT:

Whoa, whoa, whoa. Now we're getting out of...

A. And he specifically...

BY THE COURT:

Whoa, whoa, whoa now we getting outside the Motion to recuse.

A. O.K.

BY THE COURT:

And I'm thumbing through the 1994 filing, there are multiple photo and charts, diagrams, showing with numbers who is who that was filed by the district attorney's office in response indicating it was a photo lineup. Now what Mr. Riddle talked about with Robert Laborde doesn't matter, none of that matters in what the issue before the court on the recusal of the district attorney's office but that is in the record filed by Mr. Knoll's office in 1994. But I just thumbed through it so that's ... so no need to go there.

BY MR. BONUS:

Understood, Your Honor.

BY THE COURT:

O.K.

BY MR. BONUS:

I apologize.

BY THE COURT:

That's okay.

BY MR. BONUS:

I apologize.

BY THE COURT:

O.K.

BY MR. BONUS

Q. You do realize with Mike Kelly in your office from I guess 2003 to whenever he retired that there was really a potential for conflict with your office, right?

A. When you say potential for conflict, absolutely there's always a potential for conflict. In fact most of the assistant district attorneys that work for me were previously defense attorneys.

Q. And yet you were aware that Mike Kelly had an obligation to protect his client's interests, right? Vincent?

A. Yes. I'm questioning why the other lawyers never talked to Mike Kelly.

Q. And you know just with regard to history, you have ... specifically you have a history of recusing yourself?

A. Yes, if I have a conflict I recuse myself.

Q. In the (UNINTELLIGIBLE ...BOTH WITNESS AND ATTORNEY SPEAKING AT SAME TIME) case?

A. Yes absolutely.

Q. Norris Greenhouse?

A. Absolutely, Norris was working for me.

Q. So you actually recused yourself in Norris Greenhouse's case because one of your assistants was related, was the father of a suspect?

A. Absolutely.

Q. So you didn't think it was important to recuse your office when one of your assistants represented the defendant in this case?

A. He's not his son and absolutely not. Because if I had to recuse us in every case that every assistant district attorney worked in as a defense lawyer, we'd be recusing ourselves constantly, we just don't let them participate in the trial.

Q. So you think ...

A. Or in any part of the ...

Q. You thought the conflict in your office was more pervasive in the Norris Greenhouse case than it was with Vincent Simmons...

A. He was the son of my assistant, absolutely do I think it's a lot different. Again assistant district attorneys who were previously defense attorneys are not necessarily going to recuse our office. If I was their attorney I would have to recuse myself.

BY THE COURT:

For the benefit of Mr. Bonus ...

BY MR. BONUS:

Excuse me.

BY THE COURT

For your benefit, Assistant District Attorney Norris Greenhouse was a potential witness in the case as to some events that happened right after and that was another reason why Mr. Riddle's office was recused as was related to me at the time.

BY MR. BONUS:

O.K.

BY MR. BONUS

Q. And Mike Kelly actually was a potential witness in this case, wasn't he?

A. I don't know. I mean ...

Q. But he was Vincent's trial attorney and Vincent was claiming that Brady material...

A. O.K. So if he would have been a witness perhaps our office would have been recused if he was called as a witness.

Q. How about the Armondo Frank case?

A. Armondo Frank, what about it?

Q. You recused yourself in that case as well?

A. I attempted to but did not get to recuse ourselves.

Q. So you did move to recuse yourself?

A. Yes.

Q. To remove all ...

A. Appearances of impropriety, correct.

Q. You didn't want to seem partial, right?

A. Correct.

Q. Didn't your father work with Eddie Knoll at some point?

A. When Eddie Knoll got out of law school my father hired him as a private attorney and actually they became partners.

Q. Riddle and Knoll, right?

A. Riddle and Knoll that's right.

Q. So you do have a relationship with Eddie Knoll as well?

A. Oh yeah, but it may not be what you're thinking. I will say that in the last couple of years my relationship with Mr. Knoll has been very good, but prior to that I wouldn't describe it as great. I ran against him in 1990 and he beat me pretty bad.

Q. Friendly opposition?

A. Yeah.

BY MR. BONUS:

Give me one moment, You Honor.

BY THE COURT:

All right.

BY MR. BONUS:

Cutting it down a little bit.

BY THE COURT:

That would be wise.

BY MR. BONUS

Q. And you're aware with regards to Ms. White's motion and in my motion we're alleging constitutional violations with discovery issues, right?

A. I think that you are alleging that, yes.

Q. And then it's true isn't it that Mike Kelly in the past at least six - seven months has told you that he didn't receive discovery, right?

A. He ... I'll tell you what I can remember him telling me. He knows he didn't receive all discovery, and he knows that if one thing he mentioned was that if Harold Brouillette would have received some of the discovery would have been able to ask more questions.

Q. So once you heard that, why oppose? Isn't it your duty to seek justice at this point?

A. Yes.

Q. Isn't it your duty to let the man have his right to due process and present this evidence that was never presented?

A. If he's legally able to do so then yes.

Q. You're interested in the truth, right?

A. Absolutely. You know that's one reason why we made that offer.

Q. Because he might be innocent?

A. No, no, no. Because he's served enough time.

Q. Because he didn't receive a fair trial.

A. Because he's served enough time.

Q. You just said another reason ... you actually just said that one of the reasons why you made the offer ...

A. Is in the interest of justice.

Q. Because ... issues in this case?

A. I said because of the interest of justice. I personally believe the sentence was too strong.

Q. But you don't believe he should have received discovery?

A. Yes I believe he should have received discovery.

Q. You were a defense attorney, right?

A. Yes.

Q. You were a defense attorney during Mr. Knoll's time?

A. Yes.

Q. Isn't it true that Mr. Knoll was known not to turn over discovery all the time, or all of discovery?

A. This is my memory of how discovery worked with Mr. Knoll, I had to go to his office and look at the file.

Q. But you don't know whether that file's complete at the time that you look at it, right?

A. Well I can only trust that it is. I would hope that he wouldn't have held back stuff.

Q. We all hope as defense attorneys for that. Well you're not a defense attorney anymore but when you were, you hoped that they would be honest with you, right?

A. Yes.

Q. Do you remember telling KALB that you would interview witnesses in this case?

A. Yes.

Q. Did you ever go talk to Dana Brouillette?

A. No.

Q. Why not?

A. There are a lot of reasons why. I do not want to be accused of interfering with your witnesses, for one thing.

Q. Did you ever call me to talk to Dana Brouillette?

A. No, nope.

Q. You ever heard of conviction review unit that exist all around the ...

A. Absolutely, yes.

Q. You do realize that conviction review units work with defense attorneys that give them witnesses to ...

A. Yes.

Q. You do realize that, right?

A. Yes.

Q. Have you ever talked to Brian Andress, my investigator?

A. No, I'm not going to talk to your investigator.

Q. You ever talked to Dianne Prater in this case?

A. Who is Dianne Prater?

Q. Dianne Prater is the juror.

A. The juror, no I didn't talk to her.

Q. Did you ever call me to interview the experts in this case?

A. No, I'm not impressed with your experts, but that's a whole other statement.

Q. Identification was a big issue in this case, wasn't it?

A. Yes they had to ID him.

Q. They said they didn't know the man, correct?

A. I don't know that. No, that they did not know him, I think Keith said that he recognized him.

Q. Where did Keith say he recognized him?

A. Transcript as far as I remember. Oh I'm not going to find it right now. You're talking about the original trial transcript really?

Q. Absolutely.

BY THE COURT:

As we discussed at the bench we resumed after the recess we're getting a little bit far.

BY MR. BONUS:

I just want to clarify something for Mr. Riddle.

BY MR. BONUS

Q. Are you aware, this is just to refresh your memory because you might not remember.

A. Absolutely.

Q. Are you aware, and this goes to I think it was trial transcript page 36, give me one moment Your Honor. And Mr Knoll questions, this is a question by Mr. Knoll. 'Okay let me ask You this, did you know the defendant before that night?' Answer by Keith Laborde, 'No, sir, I never saw him before, I didn't even know him.'

A. O.K.

Q. Would that change your analysis with regard to Keith Laborde?

A. No. No.

Q. It wouldn't change your analysis?

A. No.

Q. Well you were just under the misassumption that you thought he did recognize him.

A. I thought that he thought he knew him, yes.

Q. So that ... your analysis with regard to the identification...

A. No it doesn't.

BY THE COURT:

Any other questions?

BY MR. BONUS:

I'm going, I'm almost done.

BY THE COURT:

That's three times.

BY MR. BONUS

Q. Isn't it true that if Vincent Simmons didn't receive discovery in this case, that he's entitled to a new trial? Isn't that true?

A. Not necessarily.

Q. Are you familiar with Weary V. Caine?

A. I'm familiar with the fact that that has been brought up before and has been denied.

Q. No, no. I asked you are you familiar with Weary V. Caine?

A. Not specifically. But I'm familiar with the principles you're talking about.

Q. Are you aware that the supreme court changed the standard by which this State uses newly discovered evidence and Brady material that it's not all that the defendant has to show is that the evidence that they didn't get at trial undermines the conviction?

A. Mr. Bonus, let me make it clear.

Q. I'm just asking if you're aware...

A. If Judge Bennett, no not new interpretation. If Judge Bennett or another judge agrees with your interpretation of his right to a new trial, he will get a new trial. You're asking me if I'm going to grant it, no. And if I'm going to consent, the answer is no.

Q. Just a quick question, you provided me with discovery files in January of this past year, I think you gave me two boxes or something like that.

A. Yes.

Q. Is there another box?

A. Does that ... was that ... the two boxes that I gave you, was that when I called you and said hey I found the old file that we thought was missing?

Q. Yeah.

A. Yeah.

Q. Is that the only stuff that's left?

A. Oh my God yeah. We've given you a couple thousand pages I think. And a lot of it you said you already have. But you're welcome to come to our office and look through everything to make sure you do.

Q. I know, you guys are very hospitable. And there was nothing in those files that ever indicated that Eddie Knoll ever turned those ... the documents with regard to discovery over to Vincent, correct?

A. You mean in a formal motion?

Q. Yes.

A. Not that I saw.

Q. So based upon ... you'd believe Mike Kelly if he said that he'd never seen those documents right?

A. Yes.

Q. So that would mean that Mike Kelly is saying that Vincent didn't receive a fair trial, right?

A. Ask Mike Kelly.

Q. So you're saying that if the defense attorney says that he didn't receive documents that were exculpatory then your position is it doesn't matter, I'm not going to give ... I'm not going to concede to anything?

A. You're asking me if I am going to consent to a new trial the answer is no.

Q. Even if Vincent didn't receive a fair trial?

A. That's your interpretation.

Q. So your position is after being a defense attorney that if the defendant doesn't receive all the discovery that it doesn't matter that he ... what is our position, I mean if a defendant doesn't receive discovery and he didn't receive a fair trial right?

A. My position is that after looking at all the factors involved in this case I am not going to consent to a new trial. If a court orders it...

Q. That's not my question. My question is if the defendant...

BY THE COURT:

Do you believe Vincent Simmons had a fair trial, that's the question.

BY MR. BONUS:

Yes,

A. I have no idea.

BY MR. BONUS

Q. And it doesn't matter that he didn't receive discovery?

A. I think if a court says it matters, then it matters. If a court rules that he didn't receive fair trial, then he's going to get a fair trial.

Q. You're aware that ... maybe you're not. But neither twin Sharon or Karen or Keith said that they knew his name when they first went to the police, you're aware of that, right?

A. I believe that is correct.

Q. So their testimony at trial that they knew his name was a lie, right?

A. I'm not going to say that it was a lie.

Q. Are you aware on page 57 of the preliminary hearing that Karen Sanders actually said the reason why we didn't go to the police was because we didn't know the man's name? Are you aware of that?

A. No I'm not.

Q. O.K. It's in the motion.

A. O.K.

Q. And your position with the photo lineup is that that's not a photo lineup?

A. The particular photo with him in handcuffs is not the photo lineup.

Q. Have you ever seen Barbara Decuir I think I'm saying her name right.

BY THE COURT:

Decuir.

BY MR. BONUS

Q. Have you ever seen Barbara Decuir and Robert Laborde's supplemental reports where they say that's a photo lineup?

A. I think what I remember is them saying that that was taken immediately after the photo lineup.

Q. That's what you remember?

A. That's what I remember.

Q. I could just tell you that's not what it said would that change ...

A. Well that's ... no that's not going to change my opinion because I have spoken to Robert Laborde, he told me who took the photo, who took the photo, why he took the photo and unfortunately that man is deceased.

Q. So you're aware though that any time that there's a lineup or an identification procedure, since 1967 it's appropriate to have an identification hearing, right?

A. Yes.

Q. One wasn't had in this case, right?

A. I don't know.

Q. And there's no evidence in this case that Kelly or Brouillette used the photographic lineup?

A. Not that one for sure.

Q. Or not the original statements right?

A. That based on what Mike Kelly testified to yes.

Q. All right. It's pretty shocking that Mike Kelly didn't even know there was a lineup in this case, isn't it?

A. I was surprised, yes.

Q. Are you concerned about that with regard to my client's rights?

A. Yeah I'm concerned.

Q. That still doesn't change your position...

A. I'm not going to change my position as to whether I'm going to consent to a new trial.

Q. It's pretty shocking that neither defense attorney used the exculpatory material in this case, isn't it?

A. You're talking about the doctor's reports?

Q. No, everything, I'm talking about all of this stuff? It's pretty shocking that their questions, they were not able to use any of the discovery, isn't that ... for you as a former defense attorney, would you not be upset about that?

A. Yeah I'd be ... I'd definitely be upset, yeah.

Q. But your position now is changed because you're a prosecutor, isn't it?

A. No. I'm not changing it, I'm just telling you the circumstances of this case, I'm not going to consent to a new trial. A judge can order it.

Q. O.K. Over the ... you oversee to... So let me ask you something, do you believe that Harold Brouillette and Mike Kelly threw this trial?

A. Absolutely not. I think they did the best that they could do. I think that they did the best that they could do.

Q. The did..

A. The best that they could do.

Q. So if I told you that they used none of the discovery in this case your position is what?

A. That they did the best that they could do, what are you asking me.

Q. So if they had the discovery and they didn't use it that ...

A. Which discovery are you talking about, the witness, the eye witness or an alibi or what?

Q. The statements, the witness statements.

A. I don't understand.

Q. The lineup, if they didn't use the discovery in this case then they would have essentially thrown the trial in this case, wouldn't they?

A. No.

Q. No? So do you believe Mike Kelly definitely didn't get those documents?

A. I believe that Mike Kelly did not receive those documents.

Q. And you oversee your assistants whenever there's filings in a case, correct?

A. Yes.

Q. You're aware of what they write?

A. Not everything. No I can't approve everything that they write. But I'm responsible for it and take the hit when something is not done right.

Q. So at least in the past six months your position is, just so we're clear, because I'm almost done. I have two more questions. Your position is clear that even though there's a strong possibility with Mike Kelly's testimony today, that Vincent Simmons didn't receive any discovery, your position is clear that you will oppose even a hearing in this case, correct?

A. Yes.

Q. You're aware in this case that Kerry Spruill ... it's going to be more than two questions. You're aware in this case that Kerry Spruill already granted a hearing correct?

A. No I'm not aware of that.

Q. October 20, 2020, do you want me to give you the filing?

A. No I think what he was going to do was have the hearing on the exceptions on that day.

Q. So ...

A. I think what you're talking about because I think he later changed it because we had filed exceptions.

Q. On October 20th, after I filed the motion, I filed the motion also asking for hearing under 928 and 929, Kerry Spruill set a date on October 20, 2020 of February 17th, 2021.

A. O.K.

Q. Are you aware of that?

A. Again I'm disagreeing with your interpretation of what he signed, regardless of what it says on there, I know Judge Spruill, sometimes he'll set a hearing until we talk to him and then he realize oh no I didn't mean a hearing on that. So if you show me an order where he says he set a hearing, I believe he signed it. But we had filed exceptions.

Q. O.K. Are you aware that 930, Article 930 specifically states that a hearing cannot be scheduled until exceptions are filed, are you aware of that?

A. Specifically no, but yeah I know that that's the law.

Q. So if Judge Spruill, isn't it Judge Spruill's common practice when he scheduled a hearing to call both parties before he schedules a hearing?

A. No, not necessarily he usually does it on criminal days. Let me ask you this, did you file that contemporaneously with your order? Because we wouldn't have had time to ... when did he sign it compared to when you filed it?

Q.. It says October 20, 2020.

A. So he signed it at that time before we had an opportunity to file exceptions, right.

Q. Maybe.

A. Well I don't think we could have filed them the same day.

Q. I don't know exactly. And isn't it true that your office on November 4th, a day after you were elected district attorney filed this substantive opposition to our supplemental motion, correct?

A. I'm aware that we filed the supplemental yes. I don't remember ...

Q. You remember ...

A. I don't remember the dates.

Q. You remember the affidavit that you signed?

A. The one that I signed concerning our conversations?

Q. Yes.

A. Yes.

Q. That was November 4th, 2020.

A. All right.

Q. So you substantively responded to our supplemental motion, correct?

A. O.K, yes, all right.

Q. Now isn't that true in Louisiana procedure that once you substantively respond you waive any objections, isn't that correct?

A. No. And if the judge disagrees with me, get the ruling.

Q. You consider Allen Holmes to be a truthful man?

A. Yes.

Q. Would Allen Holmes lie about something that you said?

A. No I think he correctly stated that I said I know. All the other stuff that he said was his interpretation of what I know meant.

Q. But you're sure he would not lie or not?

A. No he won't lie.

BY THE COURT:

Asked and answered.

BY MR. BONUS:

Nothing further, Your Honor, thank you so much.

BY THE COURT:

Any re-direct?

BY MR. MANUEL:

No, Your Honor.

BY THE COURT:

All right, thank you, Mr. Riddle you may step down.

BY MR. RIDDLE:

Thank you, you don't have any questions?

BY THE COURT:

You kind of ... I do have one.

BY MR. RIDDLE:

Oh shoot.

INTERROGATION BY THE COURT

BY THE COURT

Q. Our constitution gives rights to victims?

A. Yes.

Q. And the district attorney has duties to victims?

A. Yes.

Q. Right?

A. Yes.

Q. When you have a duty to a victim, and in this case obviously you met with the victims you said and you made a decision you're not going to acquiesce in Mr. Simmons' request, does that present a conflict if you find that something constitutionally wrong occurred in this case and you have a duty to a victim, does that create a conflict for you? Because you follow my question, if you're presented with evidence that convinces you that the prior district attorney didn't turn over what they were supposed to turn over and they had a duty to, and they didn't and now you have a duty to a victim, does that create a conflict for you? Because on one hand you've got to admit that Mr. Simmons attorneys didn't receive discovery.

A. Right.

Q. From the prior DA, and right now you have a duty to the victim..

A. Um hum.

Q. To try to prevent them from having to go through this again.

A. I think that probably any prosecutor would have that same whoever would be appointed if I was recused would have that same issue as to whether they would consent to it or not. And then the question would be why did the courts through all this time not grant that right in the past. It's got to be reasons why. And you know reading those decisions may help.

Q. Well the 2004 appears to be simply on that it was time barred.

A. O.K.

Q. So here you have information as a district attorney that certain constitutional violations potentially occurred and you have a duty to the victim, you said that if you are recused whoever is appointed would have that same duty. But isn't the overall interest...

A. The interest of justice.

Q. The interest of justice is what you have. And ...

A. I can see where you ... where it would be a conflict.

Q. Because I didn't think of any of that until ...

A. After eighteen years or almost eighteen years of dealing with this, yeah.

BY THE COURT:

O.K. Very good. All right anything else for Mr. Riddle? Thank you, sir.

Any further evidence from the State?

BY MR. MANUEL:

No, Your Honor.

BY THE COURT:

Any rebuttal evidence, Mr. Bonus.

BY MR. BONUS:

No, we rest.

COURT'S RULING

BY THE COURT:

I've got to tell ya'll that I came in here this morning under the impression that the only thing that was going to be considered was whether or not Mr. Riddle should be recused based on the potential conversation or the potential based on

the conversation with Rev. Holmes. That is so not important to me any longer.

It is abundantly clear to me and what was put in Mr. Simmons' motion he says the district attorney has the duty to acknowledge the truth, that Vincent Simmons did not receive the discovery that he was entitled to. That's been acknowledged by the prior district attorney in 1994.

In 2004 there was a filing alleging those issues, that was summarily dismissed as being time logged. As corny as it sounds, I mean this a court of justice. And whether Mr. Simmons is guilty or not guilty I mean he's been found guilty by a court though without the total picture.

The district attorney nothing personal, it could be whoever the district attorney is has this material in his file as confirmation that in 1994 something that should have been given in 1997 was not, that makes the district attorney and every assistant in that office a witness.

But the question becomes a new district attorney or appointed district attorney if Mr. Riddle is recused does that put him in the same situation? You follow me, okay, I mean it's a quandary, isn't it. Because and then you add to that the duty that Mr. Riddle has to the victim and what he's obviously followed that duty, does that present a conflict? He said it may.

So if he's recused what does it do to the next whoever is appointed, does it put them in

that same situation. Because whoever is appointed has a duty to the victims and has a duty in my opinion to acknowledge that the prior district attorney's office didn't turn over the discovery, does that put them in a witness situation too.

BY MR. BONUS:

No

BY THE COURT:

Why not?

BY MR. BONUS:

Because first of all I understand the people have a duty to the victim, I understand the district attorney has a duty to the victims. But above all, they have a duty for justice, right. That is their utmost duty. That is the first duty, we ... listen the innocence project is (INAUDIBLE) right, seventy percent of wrongful convictions are misidentifications. Let's just say this was a misidentification...

BY THE COURT:

We don't need ...

BY MR. BONUS:

I understand ...

BY THE COURT:

No, no I'm going to stop you, once you get cranked up you just tend to go.

BY MR. BONUS:

I understand. But I mean I've to say though there's a possibility specifically in this case if Mr. Riddle looked at this file, and this is

why I think we need a new set of eyes on it. Go ahead, I actually like that side.

BY THE COURT:

You want the other side? I've been pretty opinionated in this case from the beginning that I got it but in all fairness to Mr. Simmons he should have a fresh DA and a fresh judge. Nobody ... however that doesn't mean automatic recusal.

But in this case on the issue of whether or not discovery was given, it's clear the district attorney and his assistants will have position to ... for witnesses. That being said, that answer has already been given, it was not provided by the ... at least until 1994. In my opinion that makes the Avoyelles Parish District Attorneys Office a witness on that and mandates recusal.

I was going to order briefs, I was going to order all kind of stuff. I came in here thinking only issue is what did Mr. Riddle say or not say which really doesn't matter. Because what he said whether he believes it was given or not, the filings confirm it in 1994.

So the Motion to Recuse the District Attorney is granted.

BY MR. BONUS:

Thank you.

BY THE COURT:

Now the issue becomes what am I going to do, am I going to appoint an attorney who has the qualifications, a district attorney of adjoining district or the attorney general's office. I don't know what your wishes would be, I would

assume the attorney general's office, you know, which is my inclination. Because ... and I don't use the word burden, I don't want to burden another assistant ... a district attorney's office from another parish that has their own things and the attorney general's office is here.

So if that is your request I will order the attorney general be appointed to represent the State further in this proceeding.

And I want it known in this, this isn't a finding that Mr. Riddle did anything improper or any member of his staff, they did not. What Mr. Riddle is relying on he has the complete right to do was to say in 1994 Mr. Simmons filed and said my constitutional rights were violated and that matter was disposed of.

What my finding is it was disposed of summarily without the right to be heard simply on the issue and listen, I'll tell you as judges we get these post-conviction relief applications first thing I look at is it time barred. I don't even read it, is it time barred. And that was granted which says ... and listen, corny as it sounds again, justice, the issue has not been litigated, okay.

So with that and on another matter the Motion for Protective Order they have no dog in that hunt, so without the attorney general it's dismissed as moot because I've explained to you the proper procedure is for those individuals to seek the filing of affidavit and a warrant on

criminal charges and I gave you those statutes,
okay.

BY MR. BONUS:

Thank you, Your Honor. That's it, Your
Honor.

END OF RECORDING...

STATE OF LOUISIANA

PARISH OF AVOYELLES

COURT REPORTER'S CERTIFICATE

I, ROSE L. BATISTE, Official Court Reporter Twelfth
Judicial District Court, Marksville, Avoyelles Parish,
Louisiana, do hereby certify as follows to-wit:

That the above and foregoing was recorded by:

SHARON M. CHENEVERT

Certified Digital Reporter and Deputy Clerk, by FTR Gold Digital
Recording System, before the:

HONORABLE WILLIAM J. BENNETT

Judge presiding, 12th Judicial District Court, Marksville,
Avoyelles Parish, Louisiana.

That was same was transcribed by me to the best of my
knowledge, ability and understanding.

That I am not an attorney, not related to any of the
parties, and not interested in the outcome of the case.

That the attorneys, as per cover sheet attached hereto,
made part hereto, were present throughout the entire proceeding.

MARKSVILLE, AVOYELLES PARISH, LOUISIANA, this 30TH day of
the month of MAY, 2021.

ROSE L. BATISTE #91305
OFFICIAL COURT REPORTER

