



KENTUCKIANA
— COURT REPORTERS —

NO. 19 L 10035

ALVIN WADDY

V.

CITY OF CHICAGO, ET AL.

DEPONENT:

CELESTE STACK

DATE:

October 19, 2023



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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

No. 19 L 10035

ALVIN WADDY,
Plaintiff

V.

CITY OF CHICAGO, ET AL.,
Defendants

DEPONENT: CELESTE STACK

DATE: OCTOBER 19, 2023

REPORTER: FALICITY NUNEZ

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(Appeared via videoconference)

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STIPULATION

The VIDEO deposition of CELESTE STACK was taken at KENTUCKIANA COURT REPORTERS, 730 WEST MAIN STREET, SUITE 101, LOUISVILLE, KENTUCKY 40202, via videoconference in which all participants attended remotely, on THURSDAY, the 19th day of OCTOBER, 2023 at 10:04 a.m. CT; said deposition was taken pursuant to the ILLINOIS Rules of Civil Procedure. The oath in the matter was administered remotely as permitted by Illinois Supreme Court Order No. 30370 which amended Civil Rule 206(h).

It is agreed that FALICITY NUNEZ being a Notary Public and Digital Reporter, may swear the witness and that the reading and signing of the completed transcript by the witness is not waived.

PROCEEDINGS

THE REPORTER: We are now on the record. My name is Falicity Nunez. I'm the online video technician and court reporter today, representing Kentuckiana Reporters, located at 730 West Main Street, Suite 101, Louisville, Kentucky, 40202. Today is the 19th day of October, 2023. The time is 10:04 a.m. Central Time. We are convened today by videoconference to take the deposition of Celeste Stack in the matter of Alvin Waddy v. City of Chicago, et al., pending in the Circuit Court of Cook County, Illinois, number 19 L 10035. Will everyone but the witness please state your appearance, how you're attending and the location you are attending from, starting with plaintiff's counsel?

MR. TEPFER: Good morning, everyone. My name's Josh Tepfer. I represent the plaintiff, Alvin Waddy, and I'm in the West Loop office of Loevy & Loevy.

MR. STEFANICH: Brian Stefanich. I represent the individual defendants. I'm attending remotely from Wilmette.

MR. GAINER: Ryan Gainer.

MR. PALLES: Eric --

1 MR. GAINER: I represent Ron Watts. Sorry,
2 Eric. I represent Ron Watts, attending remotely
3 from Chicago.

4 MR. PALLES: Eric Palles, representing Kallatt
5 Mohammed, attending from Chicago.

6 MS. MORRISON: Katherine Morrison for the City
7 of Chicago, attending remotely from Chicago.

8 THE REPORTER: All right. I believe that was
9 everybody. And then Ms. Celeste Stack, will you
10 please state your name for the record, and hold up
11 the ID to the camera that I asked for a little bit
12 ago?

13 THE WITNESS: Okay. My name is Celeste Stewart
14 Stack, and Stewart is S-T-E-W-A-R-T.

15 THE REPORTER: Okay. All right. And then go
16 ahead and hold the ID up to the camera for me. It
17 should be --

18 THE WITNESS: Does this work?

19 THE REPORTER: Towards the top a little bit.
20 Move it up and then inward. Up a little bit more.

21 THE WITNESS: Oh, you're cruel. You're cruel.

22 THE REPORTER: I'm sorry. I hate to do it to
23 you. Now just bring your hand up a little bit for
24 me. Okay. I can see your name and everything, so
25 thank you very much. You can go ahead and put that

1 down. And then Ms. Stack --

2 THE WITNESS: I'm quite thankful.

3 THE REPORTER: Will you please raise your right
4 hand for me? Thank you. Do you solemnly swear or
5 affirm that the testimony you're about to give will
6 be the truth, the whole truth, and nothing but the
7 truth?

8 THE WITNESS: I do.

9 THE REPORTER: All right. Thank you. You guys
10 may begin.

11 MR. TEPFER: Thanks, Falicity.

12 DIRECT EXAMINATION

13 BY MR. TEPFER:

14 Q. Good morning, Ms. Stack. How are you?

15 A. Good. Good. Thank you, Josh.

16 Q. So we already sort of got in a way -- got it
17 out of the way off the record, but we do know each
18 other, correct?

19 A. Yes.

20 Q. And we've known each other, what, a decade,
21 more -- or more?

22 A. Yeah, probably more than a decade. I quit
23 working for the state's attorney in 2017 and moved down
24 here, so I haven't seen you in a while, but I've known
25 you a long time.

1 Q. I don't know if we've seen each other since
2 you left the state attorney's office. Is that also your
3 memory?

4 A. That's correct.

5 Q. You look well.

6 A. You, too.

7 Q. So we -- and we knew each other from
8 litigating when you were at the Cook County State's
9 Attorney's Office as adverse parties, correct?

10 A. That's correct.

11 Q. Okay. And so -- and some of the cases that we
12 worked on are Watts-related cases; is that accurate?

13 A. That's correct.

14 Q. Okay. So you were my -- I was counsel --

15 A. Yeah.

16 Q. -- for a man named Ben Baker. You know who
17 that is, right?

18 A. Yes.

19 Q. And you were opposing counsel -- or counsel
20 for the state's attorney's office in that matter; is
21 that right?

22 A. That's correct.

23 Q. Okay. And that was both in the collateral
24 proceedings -- when I represented him, I know there were
25 previous ones, but when I started representing him, it

1 was related to collateral proceedings that he filed
2 under, I think it was the Post-Conviction Hearing Act in
3 2015; is that correct?

4 A. That sounds correct. I didn't keep any
5 records. I -- I've looked to see, but that -- that
6 matches my recollection.

7 Q. Okay. And then you also were -- although your
8 office I think ultimately didn't intervene, but you were
9 also counsel of record in the Certificate of Innocence
10 proceedings in the Ben Baker matter as well; is that
11 correct?

12 A. Yes. I -- I know I was counsel that appeared
13 in court. I think it was in front of Judge Leroy
14 Martin. I don't remember, honestly, what our position
15 is, but I -- I'm sorry.

16 Q. No, that's okay.

17 A. But I was there.

18 Q. Sure. I mean, I can -- sure. Why don't we
19 just jump right to that, if we want?

20 A. Okay. Yeah.

21 Q. All right. I'm going to try to share
22 Baker-Glenn 04178. Let me try to bring that up. All
23 these things have, like, different Bates numbers, and I
24 didn't do this well. That's not even saved. All right.
25 I will -- you know what? Let's do this one. Let's do

1 COPA -- let's do -- well, let me ask you another
2 question. You were also opposing counsel against me, or
3 for the state's attorney's office, in another Ben Baker
4 proceeding that also involved his wife or partner,
5 Clarissa Glenn. Do you remember that?

6 MR. STEFANICH: Object to the form.

7 THE WITNESS: Yes. I don't remember her name.

8 MR. STEFANICH: Hold on. Hold on. Hold on,
9 Celeste. I'm objecting to the form. You -- wait
10 for me to object, and then you can answer.

11 THE WITNESS: I know. I'm sorry. I forgot.

12 MR. STEFANICH: No problem. Objection. Form.
13 You can answer.

14 THE WITNESS: I do remember his wife, and I
15 believe the first time I saw her -- I don't believe
16 I handled a post-conviction petition, but -- or if
17 there was one. But I did appear in court, I
18 believe, again, in front of Chief Judge Leroy Martin
19 III. That's my recollection, but I don't disagree
20 with you at all. I just honestly don't have much
21 recall.

22 MR. TEPFER: Okay. I understand. I'm going to
23 show you what I'll mark as Exhibit 1, which is
24 COPA-WATTS 1604 to 1608, and I'm going to share my
25 screen.

(EXHIBIT 1 MARKED FOR IDENTIFICATION)

BY MR. TEPFER:

Q. Can you see that?

A. Yes.

Q. Okay. And this is a proceeding. It says People v. Ben Baker, and it is in front of Judge Leroy Martin, and it's March 23, 2016. Do you see that?

A. Yes.

Q. Okay. And it has my name as appearing on behalf of Defendant Baker and your name as appearing as assistant state's attorney; is that right?

A. That's correct.

Q. Okay. And then it also goes down a little bit. And on the next page, I am -- I'm on 1605, and you're free to go ahead and look at that. But I announced myself as representing Ben Baker, and John Brayman announces himself. He was counsel for Clarissa Glenn at the time. And then you say on the record, "Your Honor, counsel, opposing counsel obviously served us with these materials and we reviewed them, and we have no objection to granting the petition for vacation of judgment. And upon vacation - vacating judgment, we would enter, ask to enter an order motion State nolle pros." Do you see that?

A. Yes. Yes.

1 Q. Okay. Does that refresh your recollection,
2 perhaps, that you were counsel for the State in the
3 2-1401 proceedings related to Baker and Glenn?

4 A. Yes, I -- I -- I -- I probably wasn't clear,
5 but I -- I do remember vacating the conviction. I'm
6 just a little foggy as to Mr. Baker's wife, Clarissa.

7 MR. TEPFER: Okay. Stop share. All right. And
8 then - and then this -- I'm going to share again.
9 Mark this as Exhibit 2. This is COPA-WATTS 16387
10 and up to 16393. So it is -- I'll mark that as
11 Exhibit 2.

12 (EXHIBIT 2 MARKED FOR IDENTIFICATION)

13 BY MR. TEPFER:

14 Q. And it's titled People v. Ben Baker and
15 Clarissa Glenn. Do you see that?

16 A. Yes.

17 Q. Okay. And it's dated April 5, 2016. And
18 you're listed as counsel for the State. I and John
19 Brayman are listed respectively as counsel for Baker and
20 Clarissa Glenn. Do you see that?

21 A. Yes.

22 Q. Okay. And this was a Certificate of Innocence
23 proceeding -- petition that we filed on behalf of Baker
24 and Glenn, here on 16388. Do I generally describe that
25 that's what this transcript reflects?

1 A. If -- if there's a question for me, yes. It
2 definitely looks like the transcript from one of those
3 proceedings for Certificate of Innocence.

4 Q. Okay. And I'll just be clear. I'll go back
5 up. This is the proceeding from 06CR8 -- 00810, 01 and
6 02 defendants. Do you see that?

7 A. Yes.

8 Q. Okay. And then on the first page, your -- you
9 state your opinion for the office. You say, "Yes, Your
10 Honor. We acknowledge receipt. We've reviewed the
11 petition and we will not be taking any position on it.
12 We won't be filing any objections or anything like
13 that"; is that correct?

14 A. That's correct.

15 Q. Okay. So you-all -- so your office didn't
16 take a position on either the -- that -- the -- on the
17 Baker Glenn COI petition; is that right?

18 A. That's correct.

19 Q. Okay. And then do you remember someone named
20 Lionel White, Sr. that I represented?

21 A. I'm sorry, the -- could you say the name
22 again, please?

23 Q. Sure. Lionel White, Sr.

24 A. Yes, I remember a Mr. White.

25 Q. Okay. And were you representing the state's

1 attorney's office when I represented Lionel White, Sr.
2 in seeking to vacate his conviction?

3 A. Yes.

4 Q. Okay. And do you remember someone named
5 Anthony McDaniels?

6 A. I don't, but I -- I find --

7 MR. GAINER: I'm sorry to interrupt. This is
8 Brian Gainer. There's someone talking really loudly
9 in someone's background, and I can't hear anything.
10 So if we could figure that out, I'd appreciate it.

11 MR. TEPFER: Yeah. Sure. Hold on one second.
12 Can we go off -- can we go off the record for one
13 second?

14 MR. GAINER: Sure.

15 THE REPORTER: Yes. Give me one moment.

16 (OFF THE RECORD)

17 THE REPORTER: We are now back on the record at
18 10:17 a.m. Central Time.

19 BY MR. TEPFER:

20 Q. Okay. I'm sorry. Do you remember someone
21 named Anthony McDaniels?

22 A. The name is vaguely familiar, but I can't say
23 I have a specific memory of him.

24 Q. Okay. It was a gun case relating -- there was
25 a -- Mohammed was an arrest -- part of the arresting

1 team in that case.

2 A. Okay. I still don't have a specific
3 recollection, but I -- you know, I handled a number of
4 these, and -- and I have no doubt that if you've got
5 documents that say I handled it, that I did.

6 Q. And do you remember when I filed kind of an
7 odd petition on behalf of someone named Jamie Calvin,
8 petition to appoint a special master?

9 A. I do remember discussions of that, and I don't
10 remember the name of the client that the, you know,
11 issue was brought to court on -- on. But I do --

12 Q. And -- oh, sorry. Go ahead.

13 A. But I do definitely remember, you know, you
14 know, talking about a special master, and I'm pretty --
15 well, I do remember.

16 Q. And it was relating to the -- to Watts-related
17 cases, in a very general sense, correct?

18 A. That's correct.

19 Q. Okay. Did we -- do you recall if we worked on
20 any other cases where I represented a criminal defendant
21 or a petitioner and you were opposing counsel?

22 A. I wouldn't be surprised, but I don't
23 specifically remember. It's -- it's the -- the first
24 three Watts cases, Mr. Baker, his -- I believe,
25 ex-wife, and Mr. White. And then the, you know, the

1 discussion of a special master, et cetera. But, you
2 know, we had a lot of cases in our unit, and I would
3 generally try and do innocence or misconduct
4 investigations, et cetera.

5 Q. When you're talking about the unit, you're
6 talking about Post-Conviction or Special Litigations
7 Unit?

8 A. Yes. It's had a number of different names.
9 And then I was the boss of the Conviction Integrity Unit
10 when it was created, so, you know, under that as well, I
11 handled these types of cases for a long time.

12 Q. Right. So -- and you're familiar that a lot
13 of my litigation has to do with post-conviction
14 litigation; is that correct?

15 A. Yes.

16 Q. So when -- even if I wasn't litigating and you
17 were not my direct opposing counsel, you were the
18 supervisor of the unit where -- against the individuals
19 that I would often litigate against; is that correct?

20 A. That's correct.

21 Q. Okay. And would you -- do you think it's fair
22 to characterize that we've always had a good working
23 relationship?

24 A. Yes.

25 Q. Okay. Do you think -- have you ever -- have

1 you found me to be an honest litigator, in your
2 experiences with me?

3 A. Yes. I've found you to be courteous and
4 professional.

5 Q. Have you ever had any experiences where I've
6 acted unethically?

7 A. You know, not to -- not to my knowledge, no.

8 Q. Okay. Have you ever had any experiences where
9 you felt that I purposely provided misinformation to
10 your office?

11 A. No, not -- no, not at all.

12 Q. Can you think of any -- beyond just being on
13 opposite sides of an issue, where we might just disagree
14 about the law or the facts, can you think of any truly
15 negative experiences you've had with me or that you're
16 aware of that I've had with anyone in your office?

17 A. I -- you know, I've never had a negative
18 experience with you. I thought we had quite a few frank
19 discussions about cases.

20 Q. And do those frank discussions that you're
21 referring to, do they in any way leave a -- like, a poor
22 taste in your mouth about how I acted?

23 A. No. No, I'm -- I meant that in a positive
24 manner.

25 Q. What -- can you expand on that a little bit?

1 A. Well, for instance, the -- the Watt -- Watts
2 issues, you know, I mean, you know, the special master
3 and - and how to treat the situation, you know. I
4 believe it was taken over by the executive staff under
5 newly elected Kim Foxx. I -- I retired and, you know,
6 only handled a handful of these cases where - that are
7 generally referred to as Watts cases.

8 Q. But you're saying you think the way I handled
9 it was appropriate, is what you're getting at?

10 A. Yes.

11 Q. Well, thank you. So we did establish -- or
12 correct me if I'm wrong, but -- well, let me just ask
13 you. Regarding the initial Baker case, you were -- Ben
14 Baker, you recall that when I represented him and filed
15 the petition, Mr. Baker was still in custody; is that
16 correct?

17 MR. STEFANICH: Objection to form. You can
18 answer.

19 THE WITNESS: I assume you're talking to the
20 post-conviction petition, because that makes sense.
21 I don't remember, but it was probably logical,
22 because, obviously, he'd have to be in custody or on
23 parole, and I'm sure it was one or the other.

24 BY MR. TEPFER:

25 Q. And do you -- I can't remember if you already

1 testified to this, but do you recall what position your
2 office ultimately took in just the idea of vacating his
3 conviction?

4 A. Yes. The upper management decided to vacate
5 the conviction.

6 Q. Okay. And does it sound right that that
7 happened on January 14, 2016?

8 A. Yes.

9 Q. Okay. And that was a case that was in front
10 of Judge Ford, right?

11 A. Judge Ford?

12 Q. Yes.

13 A. Yes.

14 Q. Okay. Now, you referred to the upper
15 management decided that. So it was -- you were not
16 supportive of that decision. Is that fair to say?

17 A. I - an investigation of this type is an
18 ongoing process. Originally, problems bothered me. You
19 know, I had problems with it, but, you know, at the end
20 of the day, it's -- it's up to the top people in the
21 office. And, obviously, you know, I learned a lot more
22 in the time remaining that I had in the office, which
23 was maybe, like, a year before, you know, I retired. I
24 -- I learned more things. So I guess what I'm trying to
25 say, in a long-winded way, is that my opinion on the

1 case was fluid, and I'd be hesitant to try and pinpoint
2 what it was at any time in that journey, you know,
3 because I can't remember.

4 **Q. Sure. That makes sense. Well, what about**
5 **right now? What is your opinion?**

6 A. You know, I've never looked at the big
7 picture. I'm obviously not involved in any way in the
8 civil litigation. I just do criminal defense work on a
9 handful of cases, and I really don't know what's
10 evolved, but, you know, I know that a large number of
11 cases were dismissed by the state's attorney's office,
12 and that's pretty, you know, significant, obviously.

13 **Q. Why is that obviously significant?**

14 A. Well, it's -- it's affected a lot of people,
15 and it will result in a lot of litigation. And, you
16 know, it's -- it's -- has negative implications to the
17 public. You know, they're all common sense things. A
18 large number of convictions had to be vacated or -- or
19 were vacated, you know, voluntarily.

20 **Q. Do you believe, if you know, that your opinion**
21 **that this would be a significant thing, is an opinion**
22 **that would be shared generally with other individuals in**
23 **the Cook County State's Attorney's Office?**

24 MR. STEFANICH: I'm going to object to the form
25 and then also that this is outside the scope of her

1 expert disclosure. And I really think it's getting
2 at, like, fact issue in the coordinated cases, where
3 we know the state's attorney's office has been
4 objecting to these types of questions. So I think
5 it's -- I think it's inappropriate because of that.
6 And I'm objecting to the form and outside the scope
7 of the expert disclosure in the Waddy case. You can
8 answer if you can, Celeste.

9 THE WITNESS: Josh, it's a bit speculative. I
10 don't remember anyone else talking to me about it,
11 the cases, and my general impression was that, you
12 know, the focus was on trying cases, and -- and
13 people -- people in the office in general weren't
14 really curious, you know. I -- but other than that,
15 I -- I can't say more, and I don't have any specific
16 memories of anybody asking me like, hey, what's
17 going on with Watts?

18 BY MR. TEPFER:

19 Q. Sure. Just in a general sense, is it --
20 during your time at the Cook County State's Attorney's
21 Office, was it a frequent occurrence where the State
22 would agree to vacate a prior conviction?

23 A. You know, I can't speak for anybody else, but
24 on my -- and I tried to do individual analysis of each
25 case and the evidence. I did learn early on, that --

1 things I didn't know about a prosecutor's duty, and I
2 tried to take those seriously and, you know, recommend
3 new trials or whatever, when I thought it was
4 appropriate, but to me, you know, the proper thing to do
5 is look at the individual facts of each case.

6 Q. Okay. All right. I'm going to show you
7 what's marked as Plaintiff Joint 035645, and there's,
8 like, an un-Bates stamped memo that was attached to the
9 e-mail that the state's attorney's office responded to
10 this, okay?

11 A. Okay.

12 MR. TEPFER: And this is Exhibit 3, Falicity,
13 if that works. It's a 15-page total document, but
14 there's only one Bates stamp. It starts with
15 Plaintiff Joint 035645, and then there's a 14-page
16 memo.

17 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

18 THE WITNESS: Okay.

19 BY MR. TEPFER:

20 Q. You -- do you know who Fabio Valentini and
21 Joseph McAdams are?

22 A. Yes.

23 Q. Okay.

24 A. Of course, yeah. He was one of my main
25 bosses.

1 Q. Okay. Both of them were your bosses in -- on
2 December 22, 2015?

3 A. Correct.

4 Q. Okay. And it looks like you sent an e-mail to
5 Fabio Valentini, the memo, and it says, "Attached is a
6 work product memo. Sorry for the delay." Do you see
7 that?

8 A. Correct. Yes.

9 Q. Okay. And then the memo attached is titled
10 People v. Ben Baker. Do you see that?

11 A. Yes.

12 Q. Okay. And then I'm not going to go through
13 all of it, but I'm going to go to page -- you write a
14 detailed memo. It's 14 pages. And then on Page 13, one
15 of the things I just want to draw your attention to is
16 you say, I'm looking under the summary, second sentence,
17 just going to highlight it here. You say, "There's no
18 doubt that Watts was brazenly corrupt and was the target
19 of investigations for years." Do you see that?

20 A. Yes.

21 Q. Okay. Now, you sort of talked about how your
22 opinions have developed at times. Is it fair to say
23 that on December 22, 2015, when you submitted this memo,
24 that was your opinion; is that correct?

25 A. You know, I -- I haven't seen the memo since I

1 submitted it, but yes. You know, it's there in black
2 and white and, you know, yes.

3 **Q. Okay. And you -- has that opinion changed in**
4 **the last eight years?**

5 MR. STEFANICH: I'm going to object again. I
6 think this is outside the scope of the disclosure in
7 the Waddy case. And so far, it seems like this
8 deposition is being used for the coordinated cases,
9 with Ms. Stack as a fact witness. And I think
10 that's improper here, but you can answer the
11 question if you can, Celeste.

12 THE WITNESS: I'm sorry. You know, I lost the
13 thread your question. I'm afraid I'll answer
14 incorrectly.

15 BY MR. TEPFER:

16 **Q. Subject to the -- I trust Brian's going to**
17 **make the exact same objection, but my question was just,**
18 **has your opinion changed related to this sentence:**
19 **"There is no doubt that Watts was brazenly corrupt and**
20 **was the target of the investigation for years," in the**
21 **last eight years?**

22 MR. STEFANICH: Same objection. You can
23 answer.

24 MR. GAINER: This is Brian Gainer. I join that
25 objection. Go ahead.

THE WITNESS: You know, like I said, I tried to look at each case separately, but there was, you know, evidence out there that there was something going on in those -- those -- that public housing complex.

BY MR. TEPFER:

Q. Okay.

A. You know --

Q. And -- go ahead. I'm sorry.

A. You know, I can't say -- answer the way you put it, that my opinion hasn't changed. I haven't been asked -- you know, I wasn't asked for one. I haven't thought about the case, other than to occasionally note, you know, that lots of cases were dismissed. So I honestly can't tell you what my opinion has been off and on, but, you know --

Q. Fair enough.

A. What I -- what I wrote was my impression at -- at the time. Yeah.

Q. Well, let me put it this way: Is there anything you learned, either since you've been retained for this Waddy case or anything in the last eight years, that causes you to question your opinion as you wrote in December, 2000 -- December 22, 2015 when you submitted that memo?

1 MR. STEFANICH: Objection. Form. You can
2 answer.

3 THE WITNESS: No.

4 BY MR. TEPFER:

5 Q. Okay. Let's talk about this -- what -- so you
6 were retained -- is it accurate that you were retained
7 in September 2023 for your expert opinion on the
8 Certificate of Innocence in the Waddy matter?

9 A. Correct. Yes.

10 Q. Okay. And is that the correct scope of your
11 retention in this matter, or what is your expertise that
12 you're bringing -- in your opinion, that you're bringing
13 in this matter?

14 A. Well, when the Statute for Certificates of
15 Innocence was enacted, that was one of the tasks that
16 was given to me, to review the new statute, the
17 procedures for it, you know, the history, the purpose.
18 And then initially -- I believe it was 2008 it was
19 enacted. Initially, I handled all the Certificates of
20 Innocence, and as time went by, that, I'm going to call
21 it, Post-Conviction Unit changed names. It changed
22 characteristics and personnel, obviously. But the CIU
23 was created 2011, 2012 from a grant that I submitted,
24 trying to get funds to help investigate. And after
25 that, I handled COIs for a while longer, but I had 60-

1 some cases I was looking at that were outside of the
2 Conviction Integrity Unit, and I eventually quit going.
3 And one of the deputies was -- ultimately became the
4 supervisor. So what I'm trying to say, again, in a
5 long-winded manner, is that, at some point, probably
6 right after Watts, I quit doing these, but for the
7 initial six, seven, eight years, I was the only one
8 doing them, and I handled a number of different types
9 and -- and used a number of different litigation
10 techniques. And Mr. Hale, who, you know, is my current
11 employer to do defense -- criminal defense work, he was
12 aware of this. And from time to time, we have discussed
13 it briefly, and that's how this happened.

14 **Q. Okay. So you talked a lot about the COIs. I**
15 **should ask you a more precise question.**

16 A. I -- I would -- I'm -- I'm sorry.

17 **Q. No, no. Please go ahead.**

18 A. Please finish your question. I'm sorry.

19 **Q. Oh, I'm just asking, to clarify: Is your**
20 **opinions related to Waddy limited to the COI**
21 **proceedings?**

22 A. Limited to the COI --

23 **Q. I'm sorry. I'm using "COI." I think everyone**
24 **understands what I'm talking about.**

25 A. Oh, I know.

1 Q. The Certificate of Innocence proceedings.

2 A. I'm afraid I -- you know, a couple of the
3 words disappeared over the connection.

4 Q. I apologize.

5 A. And I'm not exactly sure if you're asking --
6 what -- what you're asking specifically.

7 Q. Okay. So you were retained as a -- to provide
8 an expert opinion in the matter of Waddy versus whoever
9 we -- the individuals -- defendants in the City that
10 we've sued, correct?

11 A. Correct.

12 Q. And are you -- and you're going to testify at
13 the trial that's coming up in December, perhaps,
14 correct?

15 A. Perhaps, yes.

16 Q. Okay. And you're -- do you expect that you're
17 going to testify as a retained expert, right?

18 A. Yes.

19 Q. And is your testimony going to be focused on
20 the Waddy Certificate of Innocence proceedings only?

21 MR. STEFANICH: Objection to the form and to
22 the extent it contradicts the disclosure that was
23 made for Ms. Stack in this case. But you can answer
24 the question.

25 THE WITNESS: Yeah. My understanding, it was -

1 - it would go into the general provisions, et
2 cetera, the - the history, as I just explained, the
3 different options. So I -- I don't know what will
4 be asked of me at trial, obviously, but I don't
5 expect it to be focused only and exclusively on Mr.
6 Waddy's litigation under the Certificate of
7 Innocence statute.

8 BY MR. TEPFER:

9 Q. Okay. So you may also have opinions about the
10 collateral proceedings that led to his conviction being
11 vacated; is that possible?

12 MR. STEFANICH: Objection to the form.

13 THE WITNESS: Are you talking --

14 MR. STEFANICH: Objection to the form. You can
15 answer.

16 THE WITNESS: Are you talking about the cases I
17 handled, you know, over -- it was about a 20-year
18 period?

19 BY MR. TEPFER:

20 Q. No, no, no. I -- sorry. I don't mean to cut
21 you off, but I do want to -- that's a good question.

22 A. Okay. Well --

23 Q. And I want to be precise. I'm talking about
24 specifically for Alvin Waddy. I'm talking about are you
25 going to have expert opinions related to that that go

1 beyond just the Certificate of Innocence proceedings,
2 but also perhaps the -- what I asked is the collateral
3 proceedings, the Section 2-1401 petitions that led to
4 the vacating of his conviction?

5 A. Well, again, I -- I can't --

6 MR. STEFANICH: I'm going to object. Hold on,
7 Celeste. I'm going to object to form, but you can
8 answer.

9 THE WITNESS: Again, I -- you know, I can't
10 speculate or anticipate what will be asked me, if I
11 even testify, and whether there'll be objections and
12 I'll be allowed to. But I really was focused on,
13 you know, the procedure surrounding Certificates of
14 Innocence and - and not revisiting, you know, the
15 facts or the merits of the litigation that led to
16 Mr. Waddy's conviction being reversed.

17 BY MR. TEPFER:

18 Q. Okay. Well, regarding the -- your opinions
19 regarding the Certificate of Innocence, is that in any
20 way informed by what happened, for example, at a plea
21 hearing or a trial or in prior collateral proceedings?

22 MR. STEFANICH: Objection to form. You can
23 answer.

24 THE WITNESS: You know, if I'm of the opinion
25 that -- that what happened at the plea hearing,

1 because he didn't go to trial or litigate any
2 motions, so based on the record that's available, if
3 it's relevant to the Certificate of Innocence,
4 which, of course, it's a requirement that you have
5 to put in, you know, facts, et cetera, then yes, I -
6 - I could be asked to testify about it and -- and
7 give an opinion.

8 BY MR. TEPFER:

9 Q. Okay. Have you ever been a retained expert
10 before?

11 A. No.

12 Q. Okay. So this is the first time?

13 A. Yes.

14 Q. Have you ever been a non-retained expert?

15 A. Ever been a what?

16 Q. Have you ever testified as a non-retained
17 expert?

18 A. A non -- that word dropped for me here.

19 Q. Non-retained. So -- and as an expert, but you
20 weren't retained by anyone?

21 A. Not that I recall.

22 Q. You've testified as a fact witness before,
23 correct?

24 A. Yes.

25 Q. Okay. Like the Thaddeus Jimenez case was one

1 where, I think, you testified in federal court as a fact
2 witness, right?

3 A. Yes.

4 Q. You giggled. Why did you giggle?

5 A. Oh, just -- I remembered your -- your client.
6 That's why.

7 Q. And that's one. I was briefly involved in
8 that case. I forgot. Okay.

9 A. And not that -- not that it was funny, but he
10 was smiling and et cetera when I got on the stand, and
11 it just came to me suddenly, so

12 Q. And you've already testified you've been an
13 employee of the law firm Hale & Monico since 2017,
14 right?

15 A. Correct. Late summer, early September, or
16 early fall.

17 Q. And I think I understand this, but you're not,
18 like, being specifically paid for -- beyond just your
19 salary as a Hale employee, for your expert opinions in
20 this case; is that right?

21 A. You're -- I understand I am supposed to be
22 paid something for the extra work that I'm doing on --

23 Q. Oh, okay.

24 A. -- reviewing everything.

25 Q. What are you being paid for that?

A. I'm not sure, but...

Q. Okay. I'm sure that will be disclosed when that's figured out; is that fair?

A. Yes.

Q. Okay. Okay. And you live in Peoria now, just generally; is that right?

A. Not -- not in Peoria. About 20 miles outside.

Q. Downstate, correct?

A. Yes.

Q. Okay. And you -- since 2017, are you a full-time employee with Hale?

A. No.

Q. Okay. How many hours a week do you work or --

A. I shoot for 40, and that usually works out, but, you know, I have deadlines on the cases. And as you know, a lot of these post-conviction cases are -- have voluminous records, et cetera, that just keep growing as you investigate. So if I have deadlines, et cetera, to meet for court, filings, you know, I can work full-time hours for a period of, you know, whatever that deadline takes, but normally, I just -- I work halftime, I guess, 40 -- 40 hours a week or so. I mean, 30, 40 hours for a two-week period.

Q. Whew, I feel better. I was about to start an EOC investigation or something into the Hale law firm,

1 but I'm glad you clarified. So you work about 80 hours
2 a month, we would say, just generally. But obviously,
3 with court deadlines and things along those lines, that
4 fluctuates; it is that correct?

5 A. Right. It's -- it's flexible. Like all of
6 us, you know, you dig in and -- and work whatever hours
7 are needed when there's a need.

8 Q. And is the -- are you exclusively doing post-
9 conviction work with Hale?

10 A. Before I went part-time, I handled a few other
11 things, like misdemeanor defense and, I think, you know,
12 things -- things that will come in that were
13 miscellaneous, like order of protection hearings, but
14 since I went part-time, I work on post-conviction
15 matters, just -- just a handful.

16 Q. Okay. And when did you go part-time?

17 A. I want to say it was about the time that -- I
18 got sick during COVID, so it took a long time to get
19 treatment, et cetera, and after that, I went part-time.
20 So it's two to three years ago now. I -- I'd have to
21 start looking at calendars and stuff, but

22 Q. I'm sorry to hear that you got sick. I didn't
23 know that.

24 A. Oh, no. I didn't mean to go into that, but
25 right. What --

1 Q. I'm not going to ask you about -- I'm sorry. I
2 didn't mean to cut you off.

3 A. I -- I -- I just -- right now I can't remember
4 the -- the date.

5 Q. No problem. Prior -- okay. You already
6 answered this. Have you done any Certificate of
7 Innocence proceedings during your -- I think you started
8 in August of 2017 at Hale; is that right?

9 A. That's correct.

10 Q. Have you done any Certificate of Innocence
11 proceedings?

12 A. No.

13 Q. No. Okay. How many -- and I know this has
14 got to be an estimate. And I think what you testified
15 to is, after the Watts-related cases we talked about,
16 you sort of stopped doing Certificates of Innocence. But
17 from -- I think you said 2008 is when the statute was --
18 it was initiated. From that time, at the state's
19 attorney's office, from when the statute was created,
20 how many, roughly, Certificate of Innocence petitions
21 did you personally handle while you were at the state's
22 attorney's office?

23 A. I'm going to say 20 to -- to 30.

24 Q. Okay. And we talked about at least three of
25 them. That was Baker, Glenn -- Baker, Glenn, and Lionel

1 White, Sr.; is that right?

2 A. Correct.

3 Q. Okay. Do you remember the names of any of the
4 other cases?

5 A. No. I -- I know I did a very lengthy,
6 involved hearing against your firm. I believe it was
7 Russell Ainsworth, and Jennifer Bonjean might have been
8 on as well as Steve. I can't think of his last name
9 right now, but -- and it was a Markham case, and there
10 was an eyewitness expert.

11 Q. Oh, could that be Rodell Sanders?

12 A. Yes.

13 Q. Could that be Rodell Sanders? Okay.

14 A. Yes. I -- I remember everything about it but
15 his name.

16 Q. Fair enough. So that was a case that your
17 office intervened and objected, and it was litigated to
18 a hearing?

19 A. Yes.

20 Q. Oh, okay.

21 A. A long hearing.

22 Q. A long hearing. And that was a Certificate of
23 Innocence proceeding?

24 A. Yes.

25 Q. Okay. Can you recall any other cases just --

1 and when you say "hearing," let me be clear. You mean
2 an evidentiary hearing where witnesses were called and
3 such, right?

4 A. No. I'm talking -- a lot of them -- again, I
5 wish I kept statistics, but a lot of them were arguments
6 --

7 Q. Sure.

8 A. -- where we moved to intervene, and I would
9 file a brief on why, you know, we -- we were objecting
10 or whatever. I mean, you can handle these, obviously, a
11 number of different ways, you know, from argument to
12 full-blown hearings to paper proceedings, bench briefs,
13 or whatever.

14 Q. Right. Yeah. And I should have asked a more
15 precise question. Specifically the Rodell Sanders case
16 -- that was an evidentiary hearing. So that was an
17 example where there was witnesses, right?

18 A. Yes. Yes.

19 Q. Can you -- as you sit here today, can you
20 recall any other example where you were counsel, where
21 there was actual live witness testimony presented at the
22 Certificate of Innocence proceeding?

23 A. I can't -- can't recall anything specifically.
24 I do remember flying some witnesses or victims in a
25 couple times for things, you know, so I know there were

1 additional ones, evidentiary hearings, but in most
2 cases, they would be a witness or two, you know, maybe
3 the defendant, and a lot of them were handled by
4 argument and written filings.

5 Q. Okay. Do you recall any cases, beyond the
6 three that we talked about, that were Watts-related
7 where your -- that you handled, where you indicated you
8 were not taking the -- a position, the State's Office
9 was not taking a position?

10 A. No, that was -- no.

11 Q. Okay. When you say no, does that mean you --
12 there were no others or you just can't remember if there
13 were, one way or the other?

14 A. I -- I -- there were no others that I
15 remember, and I -- I think there might've been maybe two
16 more, but that was around the time I was, you know,
17 moving away from doing them. And obviously, you know,
18 when that change of policy came down to take no
19 position, the review of the petitions, et cetera, the -
20 the work involved in it, changed. I mean, we're taking
21 no position. We're not intervening. So it became more
22 of an administrative thing, where people in the Post-
23 Conviction Unit that weren't in the CI Unit could do
24 them, et cetera. So I guess what I'm saying is I wasn't
25 -- I wasn't needed anymore.

1 Q. You mentioned a change in policy or change in
2 position. What are you referring to? Was there a
3 policy at some point in the office that your office
4 would always intervene and take a position or take an
5 objection?

6 A. That was poor choice of word. I know it --
7 I'm not a civil attorney at all. I know it has more
8 meaning civilly, but I'm just saying instruction,
9 because, basically, the decisions were made by the
10 bureau chiefs on up to the state's attorney, and I was
11 informed. What happened is, and it might have been your
12 -- your cases with Watts, I was informed, and I can't
13 remember who told me or the specifics of the
14 conversation, but that from now on, on the Certificates
15 of Innocence, we would say the words that I -- what I
16 said, that, you know, we take no position on -- on it.
17 And I remember doing it for the first time, and it was
18 in front of Judge Leroy Martin, and I -- I'm pretty sure
19 it was Ben Baker's case, but I'm not positive. I'm
20 sorry. But after that, it -- it changed, because before
21 that, I, you know, would make -- make a review and --
22 and a recommendation like the one you saw in the e-mail
23 with the work product, so

24 Q. And that was in the context of whether or not
25 to agree to vacate the conviction, but what you're

1 testifying to is, even in the Certificate of Innocence
2 proceedings prior to what you believe was the first
3 time, the Baker case, you would write a memo and make a
4 recommendation on how that should be -- the Certificate
5 of Innocence should be handled; is that correct?

6 A. I don't know that I always wrote memos, but I
7 would definitely review the COI petition and, at least,
8 discuss it by -- with the bureau chiefs, because I did
9 not -- I was a supervisor, but I was low on the totem
10 pole, and I did not have the authority to make the
11 decisions myself. So even if it was just a 15-minute
12 conversation, what happened on the COI would come from
13 somebody above, and that's -- that's it.

14 Q. Was there a case that you recall that you
15 personally worked on -- or let me just expand it -- that
16 you personally worked on or one of the individuals that
17 you supervised worked on where your office affirmatively
18 took the position to join the COI petition?

19 A. I don't -- it could have happened. I mean,
20 there were cases that it -- it could have happened. But
21 I don't -- the reason I'm hesitating is the word "join"
22 doesn't sound like anything we used. We may have said -
23 - it'd be more like the state's attorney's office would
24 say, we have no objection, blah, blah, blah, blah.
25 We're not intervening. And that -- that would be -- in

1 a prosecutor's mind, it's the equivalent of - at least
2 to my personal, you know, experiences, that would be
3 quite a lot, you know. And -- and -- but it -- it may
4 have happened, and I may have, you know, agreed to it
5 somehow. There were certainly cases out there, but I
6 don't have a specific memory.

7 Q. Okay. Are you aware that there's something
8 called -- that the defendants or your office filed
9 something called Defendants Joint Rule 213(f)(3)
10 disclosures in this case?

11 A. Yes.

12 Q. Okay. And did you review the disclosure as it
13 relates to your expert testimony, prior to the
14 disclosure being submitted to us?

15 A. Briefly, yeah.

16 Q. Okay. Do you have that in front of you?

17 A. No, I -- I didn't bring anything today.

18 Q. Okay. I think I forgot to make that readily
19 accessible, but let me bring that up. Give me a second.

20 MR. TEPFER: I'm sorry. Falicity, what number
21 exhibit are we on?

22 THE REPORTER: This will be marked as Exhibit
23 4.

24 MR. TEPFER: All right. So this is -- I'm
25 going to mark Exhibit 4, what I just described,

Defendants Joint Rule 213(f)(3) disclosures.

(EXHIBIT 4 MARKED FOR IDENTIFICATION)

BY MR. TEPFER:

Q. Do you see that?

A. Yes.

Q. Okay. And there is -- I'm going to go all the way to Page 11 because that's when it starts talking about your testimony. You see your name, Celeste Stack?

A. Yes.

Q. Okay. And then it goes, I think, about two or three pages regarding -- and it's a description of what -- in a general sense, what your expert opinions are in this case; is that accurate?

A. Yes.

Q. Okay. And you did read this prior to it being disclosed to us, you testified, right?

A. Yes.

Q. Okay. And one of the things it says, and I'm on the top of Page 13 of the disclosure. It says, "When served with a petition, the Cook County State's

Attorney's Office generally has three options: One, it can intervene and object to the petition; two, it can take no position on the petition; or three, it can join the petition." Do you see that?

A. Yes.

1 Q. Okay. So I used the word "join" because
2 that's what I thought were one of the three options that
3 your office could do.

4 A. Yeah. Well, you're a better man than me. I
5 just -- I didn't remember it.

6 Q. Sure.

7 A. And I probably went on, you know, too long of
8 a narrative, but what I was trying to say was it's
9 possible. I personally did not -- I cannot remember
10 going into court and -- and using the word "join."
11 Whether, like I said, we -- we participated in it and
12 made the Court aware, you know, obviously, that --
13 that's happened, but I can't remember anything where I
14 joined in the defense Certificate of Innocence. And I -
15 - I may have, as I said.

16 Q. Right.

17 A. I just don't remember it.

18 Q. Okay. And you say "you," you mean your
19 office, the Cook County State's Attorney's Office? You
20 don't --

21 A. I mean -- no, I mean me, personally.

22 Q. Okay.

23 A. I think that's where the problem comes in --

24 Q. Well --

25 A. -- because there could be other -- other

1 people that have done it or used that word. Again, it
2 comes down to a word, I guess.

3 Q. Well, let's first focus on this word. Are you
4 aware of anyone in your office -- I know you said you
5 may have personally, but you don't recall. But are you
6 aware of anyone else in your office who got up in court,
7 filed something in court, and said they joined the
8 petitioner's Certificate of Innocence proceeding during
9 your time at the Cook County State's Attorney's Office?

10 A. No.

11 MR. STEFANICH: Objection. Form. You can
12 answer.

13 THE WITNESS: Sorry, Brian. No, I -- I don't
14 remember.

15 BY MR. TEPFER:

16 Q. Okay.

17 A. But, again, I'm not saying that it didn't
18 happen. I'm just not personally aware.

19 Q. Okay. Sure. Okay. Now, putting aside the
20 idea of join, and I get the terminology, we talked about
21 some instances where your office intervened and objected
22 to the petition. That's -- for example, Rodell Sanders.
23 That was clearly one in that category, right?

24 A. Right.

25 Q. Okay. And then you alluded to or -- and I

1 don't think we got into any specific names, but that
2 there were times where you would object, but there
3 wouldn't be evidentiary hearings, but you would
4 intervene and file an objection, and it would be handled
5 through sort of written pleadings and motion arguments,
6 so to speak. Is that fairly an accurate description?

7 A. Yes.

8 Q. Okay. And those would also fall into that
9 same category of number one. It can -- and I'm
10 pointing, but you can't see me point. But it can
11 intervene and object to the petition. Those would also
12 fall in that same category, right?

13 A. Yes.

14 Q. Okay.

15 A. I guess.

16 Q. And then there were -- we've talked about,
17 too, your office can -- or the state's attorney's office
18 can take no position on the petition, right?

19 A. Right.

20 Q. That certainly happened to -- we pointed to
21 three early on, in those Watts cases, right?

22 A. Yes. And I believe it became the standard
23 response to all of them after Anita Alvarez started
24 using it. I think Kim Foxx adopted it.

25 Q. Okay. So that's what I'm trying to ask. Is

1 there a distinction, in your mind, between two and
2 three, between the office taking no position or joining
3 - the petition?

4 A. Yes. I mean, again, we're talking semantics
5 here, Josh, and I'm not trying to be difficult, but, you
6 know, the word "join" gives the impression -- you know,
7 you -- you see a state's attorney and a defense attorney
8 standing together in court and saying, you know, grant
9 this petition, and it can and does happen. I -- again,
10 we go back to the -- the semantics narrative that I've
11 already given, so

12 Q. Well, let me ask you this: Let's take out the
13 word "join" now. Can you recall one instance in your
14 career where you personally stood up in court and said,
15 Your Honor, we have reviewed the allegations made in the
16 Certificate of Innocence petition, and we agree with the
17 allegations made, and we support this Certificate of
18 Innocence petition as an office, or something in that
19 realm. Do you recall any instance of that?

20 A. I believe so, but I -- I -- I can't give you a
21 -- a specific name. There -- there are cases, and I
22 know you're aware of them, where, you know -- while I
23 was involved, we did extensive investigations. And for
24 whatever reason, there's many reasons, we decided a new
25 trial had to be granted or the conviction vacated, also

1 happens for a number of reasons. So yes. I mean, I --

2 Q. Sure. And let me --

3 A. It happens, and I think I -- I've done it. I
4 just can't remember, and I don't want to speculate and
5 guess.

6 Q. Absolutely. I don't want you to speculate or
7 guess, but I do want to make sure you're understanding
8 my question precisely because you answered that
9 regarding convictions being vacated, and I'm talking
10 about something different. I'm talking about the
11 Certificate of Innocence, which is -- you understand
12 that there's a distinction between getting a conviction
13 vacated and then the Certificate of Innocence
14 proceeding, right?

15 A. Of course I do. Yes.

16 Q. Sure. So I certainly understand that you have
17 some memory, although you can't -- well, let me ask. Can
18 you remember any -- let me strike that. Let me -- let's
19 talk about the convictions vacated. Can you remember
20 any specific cases by name where you stood up and didn't
21 say, we're not opposing vacating the conviction, but
22 rather said, we are affirmatively joining. We've
23 reviewed the allegations, and we agree that this
24 conviction should be vacated?

25 A. All right. So we're talking about dismissing

1 a case or a conviction was entered at some time. And
2 yes, I mean, I would -- the -- the vehicle that I used
3 to -- to accomplish that was to file a 1401 petition
4 under the Civil Statute, 735 ILCS 1402. And --

5 Q. You said 140 -- and just for the record, is
6 that 1401, perhaps?

7 A. 1401. Sorry.

8 Q. No problem.

9 A. See what I mean about the memory? But the
10 little things are starting to go. The -- I would -- I
11 would draft that and send it to defense counsel. And --

12 Q. And so when -- oh, I'm sorry.

13 A. No, the -- I'll stop there.

14 Q. So when you -- is it your position, then, or
15 at least your practice, that if you agreed with the
16 allegations made by the petitioner, the convicted
17 petitioner, you would -- your practice was to file a
18 21401 petition to the Court, asking the Court to vacate
19 the conviction?

20 MR. STEFANICH: Objection. Form. You can
21 answer.

22 THE WITNESS: The -- the problem with that
23 statement, which is generally collect - correct, but
24 you said that, in order to draft that 1401, and
25 agreed to dismiss. I had to -- or the office that I

1 represented had to agree with the allegations of the
2 defendant. What happened was, I would
3 reinvestigate. And for instance, you know, I -- I'd
4 - sometimes I'd find new evidence, which was
5 exculpatory, which obviously, we turned over to the
6 defense. But what I guess I'm trying to say is we
7 didn't -- there was a number of reasons why a
8 conviction would be vacated, but it didn't mean that
9 we believe -- you know, believed or accepted
10 everything that was alleged by the opposing side.

11 BY MR. TEPFER:

12 Q. Got it. Okay. Now let's talk about the
13 Certificates Of Innocence, though. That's what I want
14 to focus on.

15 A. Right.

16 Q. Do you recall -- and, I mean, let's just cut
17 to the chase. Are there times where your office, that
18 you can remember, said, we agree that this person is, in
19 fact, actually innocent or that they meet the standards
20 of the Certificate Of Innocence Statute. So we're not
21 going to say -- we're not going to take this second
22 option and take no position on the petition. We're going
23 to do something that alerts the Court that we have that
24 position, that we join it or we affirmatively agree with
25 the allegations. Do you remember an instance, in your

1 career, where that happened?

2 MR. STEFANICH: Objection to form.

3 THE WITNESS: Okay.

4 MR. STEFANICH: You can answer.

5 THE WITNESS: Yeah. You first said, you know -
6 - and I know you were just trying to -- to explain,
7 you know, the focus of your question, but if you
8 contain it to what I experienced, I don't remember
9 an exact scenario like that.

10 BY MR. TEPFER:

11 Q. Okay. Okay. All right. What administrations
12 at the Cook County State's Attorney's Office did you
13 work under?

14 A. I think six of them.

15 Q. Okay. One of them is -- was the Foxx
16 administration, right?

17 A. For about six months.

18 Q. About six months. One of them -- the one
19 before that was the Alvarez administration, right?

20 A. Right.

21 Q. Okay. And then the Devine administration
22 before that --

23 A. Correct.

24 Q. -- you worked under those, and that sort of --
25 I know there's, like, O'Malley, or some others. I'm --

1 I can't remember the others before that. But is it fair
2 to say that you -- that the policies of the office would
3 change when -- under whoever was running the office?

4 A. Again, it's a broad question, but yeah, I
5 mean, different people who were elected into that office
6 would make changes. It -- it would often be an election
7 promise. We're going to fix this or that or whatever
8 they promised. So yes, policy changes. And again, I'm
9 not qualified to talk about policy. I was never
10 involved in it. Thank goodness. You know, but yeah, I
11 mean, you know, the example is the -- don't -- the --
12 the situation with COIs, when I was told, don't take a
13 position.

14 Q. And that happened during the Alvarez
15 administration, right?

16 A. Yes.

17 Q. Okay. And of course, some of those
18 administrations were lengthy. I mean, Devine, I don't
19 know. How long was he in charge?

20 A. I think -- I think he did two terms. Anita
21 had one.

22 Q. Okay.

23 A. And --

24 Q. But even one term, that's four years, right?

25 A. Yes.

1 Q. Okay. And certainly, policies can change
2 during the course of the time --

3 A. A single --

4 Q. -- that a single person's running the office,
5 correct?

6 A. Correct.

7 Q. And you learn things and you make changes, and
8 that's normal, correct?

9 A. Correct. Again, like, Anita, it's Alvarez.
10 Alvarez is - you know, we didn't have the take-no-
11 position policy, until somewhere in the -- in the middle
12 of her term as the state's attorney.

13 Q. So before that, the policy was, we're getting
14 involved in every Certificate Of Innocence petition --

15 A. Well, there was that - I'm sorry. You --

16 Q. No, that's okay. Let me just finish. Before
17 that, Baker case or whatever, was -- policy was, we're
18 going to get involved in some respect, in any
19 Certificate Of Innocence Petition, right?

20 A. Correct. There was a review done.

21 Q. Right.

22 A. And -- and we took - yeah. Yes, you're
23 correct.

24 Q. And you can't remember, as you sit here, any
25 time that review and that position was taken -- was

1 something other than intervening and objecting to the
2 petition, prior to the change in policy, right?

3 A. You know what? I'm sorry. Once again, a
4 couple words dropped out, and so I didn't get the clear
5 meaning that you were focusing on.

6 Q. Sure. Once there was the change in policy,
7 which was sparked by the Watts case or the Baker case,
8 you -- prior to that, you don't remember any specific
9 case where your office took any position other than
10 intervening and objecting to the petition; is that
11 accurate?

12 MR. STEFANICH: Objection. Form. You can
13 answer.

14 THE WITNESS: You know, because I didn't keep
15 records of -- of the COI cases I -- I handled, I --
16 I don't feel comfortable speculating on that. I --
17 I don't have any independent knowledge of -- to
18 answer your question.

19 BY MR. TEPFER:

20 Q. I'm definitely not asking you to -- you --
21 asking you to speculate, but what I am asking you is if
22 you remember any cases?

23 A. No.

24 Q. Okay. Okay. And certainly -- you said you
25 worked for the Foxx Administration for six months. And

1 it was the Foxx Administration who was the opposing
2 party in the Waddy COI proceedings, right?

3 A. Correct.

4 Q. And those happened in February of 2019; is
5 that right?

6 A. Correct.

7 Q. So you were a year-and-a -- more than a
8 year-and-a-half removed from leaving. What, did you
9 leave in May of 2017?

10 A. 2017.

11 Q. So about 21 months removed from the Cook
12 County State -- from working at the Cook County State's
13 Attorney's Office; is that correct?

14 A. Correct.

15 Q. Okay. Did you, in any way, stay informed of
16 the policies of the Foxx administration, as it pertained
17 to COIs, during that 21-month period?

18 A. No.

19 Q. Okay. And you hadn't litigated, as a defense
20 attorney with Hale or anywhere else, or as a -- any COIs
21 with that office during that time period either,
22 correct?

23 A. No.

24 Q. And you haven't since then either, correct?

25 A. No. I generally -- I only have one case in

1 Suburban Cook County, and we've had nothing to do with
2 the convict -- the COIs in Cook County, to my knowledge.

3 Q. If at any time you need a break, you just let
4 us know, okay?

5 A. No, that -- that's --

6 Q. Have the yawn. Let's roll. Okay. And then
7 from 2019 to 2023 -- well, let me strike that. Are you
8 saying from 2017 to 2023, you've only had one case in
9 Cook County, Suburban Cook County; is what you said?

10 A. I believe so. I mean, generally, one of the
11 reasons I moved down here is I -- I had cases around
12 Central Illinois and et cetera.

13 Q. Beside litigation, have you otherwise, since
14 2019 or since 2017, let's put it that way, since you
15 left, stayed up to date, in any way, on the policies of
16 the Foxx administration as it relates to Certificate Of
17 Innocence proceedings?

18 A. No. And, again, I was never at a policy level
19 in the office.

20 Q. Right. Okay. All right. I'm going to show
21 you -- give me a second. I'm sorry. You don't have a
22 copy of your CV in front of you, Defendant 2405, and
23 then there's another --

24 A. Let me see.

25 Q. -- document, 2261. Do you?

1 A. No. I'm sorry, but it's pretty straight to
2 the point.

3 Q. Okay. You're right. Let's just not even use
4 it then because I'm wasting my time. So one of the
5 things that you, from September -- it -- you're -- in a
6 -- in Defendants' AW 2405, you list as one of your past
7 jobs as the Supervisor of Special Litigation,
8 Post-conviction, DNA Reviewing Unit, and Conviction
9 Integrity Units; is that right?

10 A. That's correct.

11 Q. Okay. And it describe -- and that's from
12 January 2000 to May 2017?

13 A. I'm sorry. Which one? You mean the group of
14 them?

15 Q. Yeah, that's what it says in this --

16 A. You know, the names kept changing, and money
17 was -- came in and was lost and that. So yeah, if I put
18 it down there. But in -- in general, I took over as a
19 supervisor of -- of that usually small unit in 2000, I
20 think. I've been there since 1998 when, you know,
21 innocence litigation was enacted in the Post- conviction
22 Act, and I'd been involved in DNA exoneration starting
23 in the early '90s, investigating those, et cetera. So I
24 was the supervisor in that same group of units from 2000
25 until I retired in 2017.

1 MR. TEPFER: And are we at Exhibit 5; is that
2 right?

3 THE WITNESS: I'm sorry?

4 THE REPORTER: Yes, sir. 5.

5 MR. TEPFER: Okay. All right. I found it. So
6 I'm just looking at Exhibit 5.

7 (EXHIBIT 5 MARKED FOR IDENTIFICATION)

8 BY MR. TEPFER:

9 Q. This was the document I was talking about.

10 A. Okay.

11 Q. This is Defendants' AW 2405. This is -- it's
12 titled Celeste Stewart Stack. Did you create this
13 document?

14 A. Yes.

15 Q. Okay. And I was just reading right here,
16 where it says, "Supervisor: Special Litigation," and all
17 that. And it says, "Cook County State's Attorney's
18 Office, January 2000 to May 2017." Do you see that?

19 A. Yes.

20 Q. Okay. And one of the other things, and you
21 already alluded to this, is that you drafted a federal
22 grant for an investigator unit, which became the
23 Conviction Integrity Unit, or CIU, in 2011, right?

24 A. Correct.

25 Q. Okay. And what was the -- at the time -- and

1 did you actually work in the Conviction Integrity Unit,
2 as part of your duties, after the grant was given to
3 you-all?

4 A. We didn't get the grant.

5 Q. Oh, you didn't get the grant?

6 A. What -- no. So what they did was -- again,
7 this is one of the reasons the unit was in the state of
8 flux, is they took -- you know, we had a part-timer that
9 wanted to go full-time, et cetera, and they took a
10 couple people who wanted to come to the main unit and
11 brought in a few others, and they -- the office, the
12 state's attorney's office, without any independent
13 funding, created the CIU unit. And I put -- I was the
14 head of it, but, again, we reported to the bureau chiefs
15 every two weeks. So yes, that's how it worked.

16 Q. What was the purpose of the Conviction
17 Integrity Unit?

18 A. Well, obviously, you know, between DNA and
19 other matters, we had a -- a lot of people that wanted
20 their cases looked at, and I was doing it alone, you
21 know, for at least ten years, dragging people in to
22 help. And it just wasn't fair, you know, to -- not --
23 not about me, but to the issues that needed to -- in the
24 cases that needed to be reviewed. So that was the
25 effort to -- to -- to try and -- and get more resources

1 to investigate and decide what to do with these claims.

2 Q. Okay. And when you say "these claims," was
3 the Conviction Integrity Unit, during your time, when
4 you were involved with it at the Cook County State's
5 Attorney's Office, focused on actual innocence?

6 A. Yes.

7 MR. TEPFER: Okay. So I'm going to share as
8 Exhibit 6.

9 (EXHIBIT 6 MARKED FOR IDENTIFICATION)

10 BY MR. TEPFER:

11 Q. This is Plaintiff's 83780 through 783784,
12 although that last page is nonsense, and I'm only going
13 to focus on the first page anyway. This is from the
14 current website of the Cook County State's Attorney's
15 Office. So currently. Right now. And it's the section
16 on the Conviction Integrity Unit. Have you ever read or
17 seen their current description on their website?

18 MR. STEFANICH: I'm going to --

19 THE WITNESS: Yes.

20 MR. STEFANICH: Oh, it's okay.

21 THE WITNESS: I'm sorry.

22 MR. STEFANICH: Sorry. I'm going to object to
23 the extent that this was disclosed this morning, two
24 hours before this witness's deposition. I think
25 that's -- I don't think that's proper. I think it's

1 unfair. But I'll let her, you know, answer some of
2 the general questions. So you already answered,
3 Celeste, but you can answer again.

4 THE WITNESS: I believe you asked, have I ever
5 seen, you know, the CIU's website, the modern one,
6 the recent one, the last couple years? Yes.

7 BY MR. TEPFER:

8 Q. Okay.

9 A. I have. I've seen it.

10 Q. Okay. And one of the things it says on the
11 website is, it says, "The Conviction Integrity Unit has
12 a crucial role," and I'm just reading, "in examining
13 assertions of actual innocence, to assess if new
14 evidence significantly raises the likelihood that the
15 convicted defendant was not the true perpetrator of the
16 offense they were found guilty of committing." Do you
17 see that?

18 A. Yes.

19 Q. Okay. Is this sentence consistent with the
20 view that you had or that the Conviction Integrity Unit
21 that you were involved in when you were at the state's
22 attorney's office, is it -- was it consistent with how
23 you viewed the role of the CIU?

24 A. In -- in general, yes. I mean, you know, with
25 -- that's the idea that somebody would be, you know,

1 serve -- especially serving a prison sentence, or even
2 burdened with the felony conviction, that they did not
3 commit or were not at all accountable for in any way.

4 Q. Okay. It also says, "The term actual
5 innocence denotes complete absolution of any criminal
6 responsibility on the part of the defendant for said
7 crime," correct?

8 A. That's what it says. That was not my
9 standard.

10 Q. Oh, what was your standard?

11 A. Well, if a -- as I said, when you investigate,
12 you learn things. It's often a slow process. But in
13 the situation where exculpatory new evidence was found,
14 number one, you have a Brady issue. And even though
15 Brady is -- it's not always require reversal, if you get
16 to the point where the -- the old scale of justice
17 you've got -- this is my opinion about the -- not
18 relevant to Certificates Of Innocence, but the way I
19 looked at it was that if the evidence fail -- favoring
20 the defendants' innocence, that was exculpatory, or the
21 evidence of state's attorney, prosecutors putting in,
22 you know, unreliable evidence to convict a person, when
23 you get to the point where you -- you don't absolutely
24 have proof beyond a reasonable doubt, then you need to
25 give that person a new trial, you know. And in many

1 cases, we grant that, and an -- and a new trial was not
2 possible for any number of reasons, including we could -
3 - we couldn't meet our burden of proof.

4 **Q. Okay. So if I'm --**

5 MR. STEFANICH: And Josh -- Josh, I'm sorry. I
6 need to take a break.

7 MR. TEPFER: Okay.

8 MR. STEFANICH: Can we -- it might be like a
9 teb-minute break, if that's okay?

10 MR. TEPFER: Okay. Are you going to be --
11 okay. All right. That's fine. I trust you --
12 we're going to follow all federal rules during that
13 break.

14 MR. STEFANICH: Sounds good.

15 THE REPORTER: Give me one second to get us off
16 the record. We are now off the record at 11:28 p.m.

17 (OFF THE RECORD)

18 THE REPORTER: We are back on the record for
19 the deposition of Celeste Stack, being conducted by
20 videoconference. My name is Falicity Nunez. Today
21 is October 19, 2023. The time is currently 11:44
22 p.m. Central Time.

23 BY MR. TEPFER:

24 **Q. Okay. All right. I think where we left off -**
25 **- and I'm going to just try to summarize it, and maybe**

1 you can tell me if I sort of got this right. Because
2 you had a -- you had a lot of different roles when you
3 were at the state's attorney's office, and there was
4 things that were called different things, the
5 Post-Conviction Unit, Special Litigations, Conviction
6 Integrity, and you sort of had a hand in all of those
7 things; is that correct?

8 A. Correct.

9 Q. Okay. And I asked you a question about the
10 current website at the Conviction Integrity Unit, where
11 it defines actual innocence as "complete absolution,"
12 and you essentially said that's not how you viewed it,
13 and that when you would have a case, you would -- you
14 know, there may be other reasons that you would support
15 some sort of relief from a conviction, even if it wasn't
16 absolute innocence, or something along those lines. Is
17 that generally correct?

18 A. That's -- that's true.

19 Q. Okay. While you were at the Cook County
20 State's Attorney's Office, though, was there a time
21 period where there was both a unit that handled
22 post-conviction litigation and then also a separate unit
23 that handled conviction integrity, so to speak?

24 A. Well, yeah. It was -- officially went into
25 business, it was either January 1, 2011 or 2012. And --

1 and --

2 Q. Where the --

3 A. -- it is --

4 Q. Oh, I'm sorry.

5 A. I'm sorry. I -- I -- no, I did that to you.

6 It's -- I don't know how you'd describe it, but that's a
7 situation where I said I was technically the supervisor
8 at the CIU, would go to, you know, biweekly meetings.

9 You know, for the first year, while other people came up
10 to speed, I did -- I continued to do most of the
11 investigations on the innocence claims. Just -- anyway.
12 And -- and as I -- I think I already said, that
13 situation kept evolving, but I had regular PCs, non-CIU
14 PCs as well.

15 Q. And so after you left, if you know, after you
16 stopped doing this -- the Conviction Integrity work, or
17 focus back more on the PCs, if you know, was the mission
18 of the individuals who worked in the Conviction
19 Integrity Unit, was that distinct from the Post-
20 Conviction Unit?

21 A. After I left?

22 Q. Yeah.

23 A. I don't remember.

24 Q. And not the office. I'm sorry. After you --
25 well, maybe I'm misunderstanding. Was there a point,

1 when you were still in the office, where you were really
2 back, and just doing PCs as opposed to --

3 A. You know, it was all kind -- kind of
4 unofficial. I -- after a couple years, I quit going to
5 the meetings with the bureau chiefs. You know, as I
6 said, they made the decisions, and I just didn't have
7 the time. And so by the time I left, in 2017, the CIU
8 was -- was more independent, and there wasn't
9 corroboration or cooperation between the two.

10 Q. I see. Okay. I mean, one distinction,
11 correct me if I'm wrong, at least how I understand it,
12 is the PC unit would never be involved in a case that
13 wasn't actually filed in court. Is that accurate during
14 your time there?

15 A. Yes.

16 Q. Okay. But the Conviction Integrity Unit may
17 or -- may be involved in a case where someone just
18 writes to them, whether it's an attorney or an
19 individual, and say, hey, I meet the qualifications for
20 relief. I'm not going to file anything in court. Will
21 you investigate this? Is that a fair general summary?

22 A. Yes. But, in fact, this policy change
23 happened after I retired. The CIU will not take a case
24 if you also have a PC pending, alleging innocence.

25 Q. Okay.

1 A. They -- they won't even talk to you about the
2 case, unless you don't go to court.

3 Q. And that's from your understanding, from what
4 you've learned after you left? That's still --

5 A. Yeah, that's --

6 Q. That's their policy, right?

7 A. That was not the policy when I was still
8 there, and -- and at least nominally, you know, part of
9 the -- the chain of -- of command for the CIU.

10 Q. Okay. But in instances where they weren't
11 filed in court and the CIU was involved while you were
12 there, was their mission -- in those circumstances where
13 someone just asked them to investigate, was their
14 mission to determine whether or not someone was actually
15 innocent, as opposed to some sort of other reason for
16 relief?

17 A. Well, as long as I had involvement. But
18 generally, you know, say, if the person who is my
19 deputy, and then, you know, the -- it was one of my
20 deputies became assigned to the CIU when it was created,
21 and they were -- were, you know, supervising it. So if
22 they had a CE, they generally just dealt with the bureau
23 chiefs themselves.

24 Q. Who was the deputy? I'm sorry.

25 A. I'm sorry?

1 **Q. Who is the deputy you're referring to?**

2 A. The -- the first deputy was Jim or James Popa,
3 a first chair. And then Nancy -- or her name's Nancy
4 Adduci now -- came over, and she was my deputy, and I -
5 - I interacted with them both a lot, but, you know, they
6 were -- they were seasoned attorneys, and we were all,
7 you know, busy, and they just went to the bureau chiefs.
8 That's what I mean. It was -- you know, I -- I took
9 myself out of it more and more, but I was still aware of
10 cases, you know, because a lot of the cases that came
11 into the CIU unit had been kicking around for a while.
12 It's that -- I'm sure you know. And so either myself or
13 one of my deputies -- I had two for a while, for some
14 crazy reason, and then, you know, some - sometimes the
15 people in my unit, they'd all be handling cases that the
16 CIU was assigned to as well.

17 **Q. Okay. So you're saying, if I'm understanding,**
18 **maybe technically, you were their direct supervisor, the**
19 **people who were handling CIU cases, and I'm referring, I**
20 **guess, to Jim Popa, and Nancy Adduci, or Nancy Galassini**
21 **Adduci, at times, but when they would actually make a**
22 **recommendation for what to do, it would oftentimes just**
23 **bypass you, and they'd go directly to someone above you,**
24 **the bureau chiefs, with their recommendations. Is that**
25 **generally correct?**

1 A. Yeah. I mean, I -- I would encourage that.
2 You know, a lot of times, you know, we would
3 collaborate, but as I said, you know, I -- I -- I
4 trusted their experience, and -- and, you know, it just
5 took me -- took away delay, you know. As I said, most
6 of these cases, investigations have been pending for a
7 long time, so move it along, you know, if a decision is
8 close.

9 Q. Did you give them -- and by "them," I mean Jim
10 Popa or Nancy Adduci Galassini or anyone else who was
11 working in the Conviction Integrity Unit -- any sort of
12 specific instruction of -- that their recommendation or
13 analysis should consider things beyond actual innocence?

14 A. You know, there were no written policies.
15 Again, I didn't have policies, but they knew that I
16 wanted to hear about those things and that I considered
17 them, you know.

18 Q. When you say "those things," what do you mean?

19 A. I mean, things that would affect the validity
20 of a conviction, you know.

21 Q. Got it. Okay. What did -- you worked with
22 Nancy Adduci, or Galassini?

23 A. Yes.

24 Q. Okay. Do you have any opinions on her
25 abilities as a lawyer?

1 A. Positive, you know, in her -- her lawyering
2 ability, but, you know, I -- I'm no expert at it. You
3 know, we all kind of work separately, but she had a lot
4 of trial experience when she came to the unit.

5 **Q. Okay. In your work with her, did you find her**
6 **to be thorough?**

7 A. I -- you know, I -- I am not saying she was
8 not. I just don't -- I'm trying to recall the cases of
9 hers that I had knowledge of. And again, they were
10 situations where I'd actually done previous
11 investigations, or somebody else had, so I -- I can't I
12 -- I'm sure she was thorough because the bosses would
13 say, go back and do this, or, you know, if there were -
14 - you know, but it's hard to answer because that word is
15 kind of loaded and has a lot of connotations. I'm
16 trying -- I'm not trying to be difficult, but I don't
17 want to say something I can't honestly say. So I should
18 have just said that.

19 **Q. Fair enough. Let me put it this way: Did you**
20 **ever have a circumstances with her where you reviewed or**
21 **saw some of her work and told her, or at least formed an**
22 **opinion, being like, this was not well done, this was**
23 **not -- you missed a lot of things that you should have**
24 **been doing here?**

25 A. Again, that's specific and has connotations.

1 No, I don't recall something in the way that you
2 described or -- no.

3 Q. Okay. And, I mean, full transparency, the
4 reason I'm asking is, you're aware that she's the
5 individual who filed the motion to vacate Alvin Waddy's
6 conviction. Do -- did you know that?

7 A. She filed the -- the what?

8 Q. The 2-1401 petition to vacate Alvin Waddy's
9 conviction?

10 A. Yeah. I think -- you know, I've been doing
11 the review of the Waddy file over weeks, and I -- I
12 think I was aware of that. Yeah.

13 Q. Okay. Have you ever spoken to Nancy Adduci,
14 or Nancy -- I'm just going to -- when I say Nancy
15 Adduci, you know I'm referring to Nancy Galassini as
16 well, right?

17 A. Right. Right. Yeah.

18 Q. Okay. Have you ever spoken to Nancy about the
19 Waddy case?

20 A. No.

21 Q. Have you ever spoken --

22 A. Or -- or any of the Watts cases.

23 Q. All right. That was my next question. Do you
24 know Mark Rotert?

25 A. No. I mean, I -- I was aware that Ms. Foxx

1 brought him in, but I -- I never met him or had dealings
2 with him.

3 **Q. Okay. Do you know Julia Nikolaevskaya?**

4 MR. TEPFER: I'm going to spell that for you,
5 Falicity. Don't worry. N-I-K-O-L-A-E-V-S-K-A-Y-A.

6 THE WITNESS: I don't believe so, no.

7 BY MR. TEPFER:

8 **Q. Okay. All right. Let's dig in a little bit**
9 **more to the actual disclosure in this case, okay?**

10 A. Uh-huh.

11 **Q. You said you reviewed this disclosure. Do you**
12 **know how many hours? Have you kept time of how many**
13 **hours you've worked on this case, let's just say in**
14 **general, the Waddy case?**

15 A. You know, I -- I'm keeping a running tally,
16 but honestly, I -- I had another deadline this week, and
17 I know this week, I've put in, you know, a handful of
18 hours reviewing things. I'd -- I'd be guessing.

19 **Q. Okay.**

20 A. But I'd say maybe ten, 12 hours, to -- to --
21 to guess.

22 **Q. And that's in total since you've been**
23 **retained, is what you're saying?**

24 A. Yes. Yeah.

25 **Q. Okay. Do you -- and you said you put in some**

1 hours this week. That seems very normal, as you were
2 being deposed this week. Do you recall how many hours,
3 roughly, you spent prior to this disclosure that was
4 submitted?

5 A. No. I -- I -- you know, I -- like I said, I --
6 -- I had a -- a lot on my plate for the last month or so.

7 Q. Okay. And it looks like this was disclosed,
8 and I can just show you, on September 11, 2023, so five
9 weeks ago or so.

10 A. Okay. Yeah. You know, Mr. Stefanich has been
11 very diligent about sending me things, but I'm afraid
12 that I -- you know, I started with the case materials,
13 like the -- the transcripts and your COI petition,
14 things like that. And, again, I did a review earlier,
15 but I wanted to refresh my memory. You know, it was my
16 idea to go back and look at my notes, et cetera, because
17 my memory -- you know, I've been focused on other
18 things, so I really don't recall when I looked at the
19 213 disclosure.

20 Q. Okay. So you do have some notes relating to
21 your expert work in this case?

22 A. No. I just keep a running, you know, tally of
23 hours. It's literally a -- a couple numbers and a -- a
24 word, you know.

25 Q. I just heard you say you went back and looked

1 at some notes. Is that not accurate?

2 A. Yeah. You know, I -- it was just, like, the
3 date of the plea. Again, just -- I didn't bring it, but
4 it's literally a page of dates.

5 Q. Got it. All right. Let me just ask you to
6 hold on to that and --

7 A. Sure.

8 Q. Okay. And so nobody is going to contest
9 Mr. Stefanich's diligence, but you do list -- here in
10 this disclosure, it does list the things that you
11 reviewed. And I'm looking at Page 12. I don't remember
12 what exhibit this is. I've been really bad about
13 keeping track today, but this is the disclosure. Is
14 this Exhibit 4? Yeah.

15 THE REPORTER: This would be 7. Oh, I'm sorry.

16 MR. TEPFER: Previously 4. Yeah.

17 THE REPORTER: Okay.

18 BY MR. TEPFER:

19 Q. Previously 4. Yeah. Sorry. This is not new.
20 Okay. And it lists six different things that you
21 reviewed prior to this disclosure. One of them is the
22 COI transcripts from People v. Waddy. Did you review
23 that?

24 A. Yes.

25 Q. Okay. And another one is the motion to quash

1 arrest and suppress evidence from Mr. Waddy's charged
2 co-defendant, Jermaine Mays. Did you review that?

3 A. Yes.

4 Q. Okay. And --

5 A. That was one of the first things. Yeah.

6 Q. Okay. And another is just a one-page COI
7 order from March 18, 2019. You reviewed that?

8 A. Yes.

9 Q. Okay. Another was the petition that I filed
10 for a Certificate of Innocence. Did you review that?

11 A. Yes.

12 Q. Okay. And then another was the preliminary
13 hearing transcript from April 25, 2007 in Alvin Waddy's
14 case. Did you review that?

15 A. Yes.

16 Q. And then another was the plea transcript from
17 August 6, 2007, in Waddy's case, and you reviewed that?

18 A. Yes.

19 Q. Okay. And I said 6. There's also listed the
20 certificates of -- Certificate of Innocence statute. You
21 reviewed that; is that right?

22 A. Yes.

23 Q. Okay. So all of that was reviewed prior to
24 this disclosure in Exhibit 4; is that accurate?

25 A. Yes.

1 Q. Is there anything else that you reviewed since
2 then?

3 A. No. No.

4 Q. Tell me about the process of this disclosure.
5 Did you write the disclosure?

6 A. No, I gave Mr. Stefanich the information.

7 Q. Okay. So you had -- is it fair to say you had
8 -- he sent you some materials, you formed some opinions,
9 and then you had some discussions with him, and then he
10 drafted up -- or if you know, someone from your office
11 or Mr. Stefanich drafted up the disclosure and you
12 reviewed it before it was sent to us. Is that roughly
13 the process?

14 A. Yes, that's roughly the process.

15 Q. Okay. All right. So one of the comments in
16 this disclosure is -- one second. One of the things
17 said in this disclosure, and I will find it, is it says
18 that the Certificate of Innocence petition is a very
19 limited remedy, was a word that was used with -- in one
20 of the -- and the purpose is to seek monetary
21 reimbursement with the Court of Claims; is that right?

22 A. Correct.

23 Q. Okay. Okay. Yeah. I'm looking at Page 12 of
24 the disclosure. "Ms. Stack is expected to testify that
25 the purpose of the Certificate of Innocence statute is

1 to provide individuals with an opportunity to obtain a
2 certificate in order to petition the Illinois Court of
3 Claims for competition -- for compensation for time the
4 individual spent in custody"; is that right?

5 A. Yes.

6 Q. Is that the sole purpose of the statute?

7 A. Yes.

8 Q. Okay. And what's your basis for that opinion,
9 that that's the sole purpose of a Certificate of
10 Innocence?

11 A. The language of the statute itself, which does
12 for criminal -- well, if -- it's not really a criminal
13 statute, but it's right in the face of the statute.

14 Q. And which particular part of the statute are
15 you referring to?

16 A. I'm doing it off the top of my head, but I do
17 believe that there's an introductory paragraph or two.
18 And at some point, you know, going back to when it was
19 first enacted and the first COI was filed in the
20 courthouse I worked at, which was 26th Street at the
21 time, you know, I looked extensively at whatever
22 legislative history I could find, and it always stayed
23 with me, you know, that the Court of Claims had this
24 remedy, but it was confusing, and most people didn't
25 even know about it, and, of course, it -- it took

1 forever. So, again, with the C-change that came from
2 the, you know, DNA, and the changes that came
3 afterwards, you know, the legislator -- legislature
4 thought with these, you know, vacated convictions and
5 DNA exclusions, that we need to fix this mess. That's
6 was my interpretation.

7 **Q. Right. Okay. So I brought it up. It's**
8 **Exhibit 7, and this is one of the things you reviewed.**

9 MR. TEPFER: This is -- I'm going to mark this
10 as Exhibit 7, and I have it as Plaintiff Joint 83746
11 through 749.

12 (EXHIBIT 7 MARKED FOR IDENTIFICATION)

13 BY MR. TEPFER:

14 **Q. Can you see this?**

15 A. There we go. Now we're getting into the
16 statute. Yeah.

17 **Q. Okay. So you were -- and this is the**
18 **Certificate of Innocence statute that you were referring**
19 **to, right?**

20 A. Correct. That was the one that I've looked at
21 recently and was saying, you know, the purpose is right
22 there.

23 **Q. Right. And this is the first paragraph that**
24 **you're referring to, and it does, in fact, say that --**
25 **there in Section A, that such persons should have an**

1 available avenue to obtain a finding of innocence so
2 that they may obtain relief through a petition in the
3 Court of Claims, correct?

4 A. Correct.

5 Q. So is that sort of the language you were
6 referring to, that that's the sole basis for the
7 petition?

8 A. Right. Yeah. I mean, that's -- that's the
9 main purpose. I -- I -- I don't want to get into the
10 semantics again and -- and say that it's its only
11 purpose, but, you know, it -- it -- it's related to the
12 Court of Claims. It's -- it's not a criminal statute.
13 It doesn't use criminal standard. And obviously, it's
14 Not a civil rights statute. It's trying to get
15 practical help for people who've been wrongfully
16 incarcerated.

17 Q. Okay. Well, I do -- I'm going to get a little
18 bit into the semantics because I think you did testify
19 that it was the sole purpose, was the Court of Claims.
20 So are you saying that is not the sole purpose, and is
21 that your testimony now?

22 A. No, I -- I -- I think that's what it was
23 intended for.

24 Q. Okay. Well, I'm going to show you Exhibit --
25 or I'm going to show you Section H of the same statute,

1 okay?

2 A. Uh-huh.

3 Q. All right. And you've read this statute, and
4 this is something reviewed. I'm going to look at H(2),
5 it says, and this is a provision that talks about if a
6 Certificate of Innocence is granted, it says, "The
7 Court," right here in the middle, I'm highlighting, "The
8 Court shall enter an order expunging the record of
9 arrest from the official records of the arresting
10 authority and order that the records of the clerk of the
11 Circuit Court in Illinois State Police be sealed until
12 further order of the Court." Do you see that?

13 A. Yeah.

14 Q. Okay. So is it fair to say that in the
15 statute itself, another purpose is sealing?

16 A. Well, there is another statute that deals with
17 expungement and requires the governor to make a specific
18 -- I'm sure you know this, but -- and that -- that's
19 also a mess. I don't know if they've fixed it, but by
20 adding -- making piecemeal additions, it was very
21 confusing. But around the same time, all these other
22 changes were occurring, the statute that deals with
23 clemency and pardons and sealing records changed to
24 require -- or to provide, you know, for this -- I see it
25 as another separate remedy from Certificate of

1 Innocence. It is -- you can use your Certificate of
2 Innocence, obviously, to speed that process along as
3 well, but, you know.

4 Q. Okay. Well, it does say in this Certificate
5 of Innocence statute that if the Court finds that the
6 petitioner is entitled to a judgment, the Court -- and
7 I'm skipping some, but it says, "The Court shall enter
8 an order expunging the record of arrest"; is that
9 correct?

10 A. Yes. Yes.

11 Q. Okay. All right. And then you referenced
12 another statute. Do you know -- what was the statute
13 that you're referencing?

14 A. I don't know, but it's -- again, it was one of
15 these projects that I got, and so I had to learn it. I
16 -- I -- I think I went to Springfield about it. And it
17 - it was a mess. But you know, that was another avenue,
18 a -- a separate avenue, for someone who had been wrongly
19 incarcerated or convicted to get some relief. And, you
20 know, outside the court system, you could go to the --
21 the governor. And if you get a pardon, which was
22 another long process, but if you could get a pardon, the
23 Certificate of Innocence, you know, after it was granted
24 -- it's got to be granted first, and then you can go to
25 the governor, and hopefully, if that's your client, get

1 a pardon that specifically says -- refers to the
2 Certificate of Innocence so you can seal your records.

3 Q. Okay. So it's your understanding that even if
4 you get a Certificate of Innocence, in order to get
5 expungement, you still have to go to the governor to get
6 a pardon to allow expungement?

7 A. That's what it was when I was litigating.
8 Yeah. I mean, that's what the statute read, unless
9 they've changed it again, because it was a mess.

10 Q. Okay. Is the statute that you're referring
11 to, is it different than the statute we have up as
12 Exhibit 7?

13 A. Oh, yeah. Oh, yeah. It's separate.

14 Q. Oh, it's a separate statute that you're
15 referring to?

16 A. Oh, yes. Yes. I'm sorry. I'm sorry.

17 Q. Okay. All right. So let me ask you this,
18 though: When you were working on certificates of
19 innocence and what you're talking about, did Section H,
20 as I read, H(2), did that exist in the Certificate of
21 Innocence statute?

22 A. I -- I'm -- I'm pretty sure it did. Like I
23 said, there was a concerted effort involving different
24 areas, the Court of Claims pardons to judges, sealing of
25 records or expunging totally a -- a conviction, but they

1 were separate -- separate statutes from totally separate
2 sources, you know, and -- but it was all part of the
3 Illinois legislative and, I guess, Supreme Court effort
4 to fix -- you know, fix this problem and give people
5 relief of various kinds, not just criminal court cases
6 or civil court cases.

7 Q. Okay. So when you were working on this, it
8 had this H(2) provision, but there was still a separate
9 step to go to the governor to get the pardon, even after
10 you -- to get the expungement pardon and expungement,
11 even after you received the Certificate of Innocence.
12 That's your testimony?

13 A. Yes. Has it --

14 Q. Okay.

15 A. -- has -- has it been changed? You know --

16 MR. TEPFER: Okay. I'm going to show you
17 Exhibit 8.

18 (EXHIBIT 8 MARKED FOR IDENTIFICATION)

19 BY MR. TEPFER:

20 Q. And I think this might be the statute you've
21 been referring to. It's 20 -- well, let me give you the
22 long, but it's Plaintiff Joint 03-083754 through
23 Plaintiff Joint 083778, okay? And this is Statute
24 20ILCS2630/5.2 Expungement Sealing and Immediate
25 Sealing. Do you see that?

1 A. Yes. It's -- it's definitely related. And
2 again, I see, you know -- there used to be -- but there
3 is -- you know, I don't know if you've ever filed a -- a
4 -- a request for a pardon or clemency petition with the
5 governor's office, but there is a statute for that. And
6 that's where -- and -- and, again, it's fairly new in
7 talking 25 to - maybe 30 years old, but probably, again,
8 late '90s, early 2000. It -- the -- the -- to file a
9 clemency petition, the statute that governed that did
10 not have this provision for a pardon based on innocence.
11 So that was new.

12 **Q. Right.**

13 A. And it's a separate statute, and it was tied
14 to expungement and sealing and, of course, Certificates
15 of Innocence. But they're separate statutes and
16 separate venues and separate systems, you know,
17 judicial, gubernatorial, et cetera. I -- I know it's
18 confusing. I'm making it worse, but

19 **Q. Fine. All right. But let's look at this**
20 **particular statutory provision in Section 8 -- it's**
21 **actually B(8) of that statute, 20ILCS2630/5.2B8, okay?**
22 **And it reads -- and I'm on Plaintiff Joins 83760. "If**
23 **the petitioner has been granted a Certificate of**
24 **Innocence under Section 2-702 of the Code of Civil**
25 **Procedure, the Court that grants the certificate of**

1 innocent shall also enter an order expunging the
2 conviction for which the petitioner has been determined
3 to be innocent, as provided in Section H of Section
4 2-702 of the Code of Civil Procedure." Do you see that?

5 A. Yes.

6 Q. Okay. So that's the Section 2 -- Section 8 --
7 Subsection H of Section 2-702 is what we were just
8 looking at, right, before?

9 A. Right.

10 Q. Okay. And this says that the Court shall
11 enter the order, right?

12 A. Right.

13 Q. Okay. So the Court enters the order for
14 expungement, right?

15 A. Yes. You know, I -- I -- I wasn't prepared to
16 go into all this, but there's always been a -- a
17 requirement, if I'm correct. Say the governor grants
18 clemency petition or a pardon. IDAC may release the guy
19 or whatever, but to get it expunged or sealed or
20 whatever, you -- you still have to go back to a
21 courtroom and get an order signed if you want the state
22 police to clear this, you know. I mean, it's a
23 multifaceted process. Different systems are involved.
24 Sorry.

25 Q. Okay. All right. So expungement is another

1 thing that, beyond petitioning the Court of Claims, is
2 something that can - a benefit that can happen -- help
3 the wrongfully-convicted; is that right?

4 A. Right. If you're successful on your
5 certificate --

6 MR. STEFANICH: Objection --

7 THE WITNESS: I'm sorry.

8 MR. STEFANICH: I need to make my objection.
9 Objection to form. You can answer the question.

10 THE WITNESS: If you are successful in however
11 it's done and your Certificate of Innocence is
12 granted, then naturally and obviously, benefits will
13 occur, and not only will you get whatever monetary
14 amount you are entitled to from the Court of Claims
15 in an expedited process, but you will get -- you can
16 get a court order almost immediately signed for
17 expungement and sealing, et cetera. And I remember
18 there was litigation on that in some of these cases,
19 but I'm -- I'm not prepared to go into it, and I
20 certainly don't want to ramble on with half-memories
21 anymore. But yeah, they're separate. And first of
22 all, you've got to win the Certificate of Innocence.
23 Then various benefits accrue to you, you know.

24 BY MR. TEPFER:

25 Q. Okay. Not to cut you off, but --

1 A. No, I'm done.

2 Q. The remaining questions regarding this
3 category of questioning are all going to be under the
4 assumption that you win the Certificate of Innocence.

5 A. Okay.

6 Q. Just to clarify.

7 A. All right.

8 Q. So the benefit of expungement, however, is not
9 mentioned in the disclosure that you reviewed and was
10 sent to us; is that correct?

11 A. That's correct.

12 Q. Okay. Are there any other benefits of
13 receiving a Certificate of Innocence, beyond petitioning
14 the Court of Claims and expungement?

15 A. The money, obviously --

16 Q. And not to cut you off, but "the money," that
17 refers to petitioning the Court of Claims for damages?

18 A. Court of Claims. Yes.

19 Q. Yeah.

20 A. But the potential to have -- you know, there's
21 -- I -- I don't want to get into it, but there's a
22 difference in having a -- a -- a conviction -- getting a
23 pardon from the governor, there's ramifications to that,
24 but I can't think of anything right now --

25 Q. All right.

1 A. -- but obviously, you know, there are other
2 benefits that we've already discussed here. I can't
3 think of anything more. Sorry.

4 **Q. No, you're fine. I'm going to show you what**
5 **I've marked as Exhibit 9.**

6 MR. TEPFER: Is that where we're at?

7 MR. STEFANICH: Yep.

8 THE REPORTER: Yes. We're on 9.

9 (EXHIBIT 9 MARKED FOR IDENTIFICATION)

10 BY MR. TEPFER:

11 **Q. Okay. Can you see my screen?**

12 A. Yes.

13 **Q. Okay. So this is 20ILCS1710/1710-125. It's**
14 **just a one-page exhibit, Plaintiff's Joint 83779. Are**
15 **you familiar with this statute?**

16 A. I -- I did not review it or think of it, but
17 it -- it -- it's, you know, another benefit, and -- you
18 know, but that went into effect, what, 2011, 2012? I
19 don't --

20 **Q. It looks like 2011, yeah.**

21 A. Yeah. I never had anybody that -- that
22 required those services or asked me for them.

23 **Q. Okay. So -- but what you're referring to as**
24 **another benefit is that if you're a wrongfully convicted**
25 **persons, as defined in Section 3-1-2 of the Unified Code**

1 of Corrections, you can obtain mental health services,
2 including services for post-traumatic stress, at a
3 mental health facility at no charge; is that correct?

4 A. Correct.

5 MR. STEFANICH: Object to the form. Hold on,
6 Celeste. Object to the form and also object to the
7 timeliness of the disclosure of this document, which
8 I think was produced two hours before the
9 deposition. You can answer the question.

10 THE WITNESS: Correct.

11 MR. TEPFER: Okay. I mean, I'm going to just
12 briefly address that objection. I mean, I did
13 disclose this because I was nice, I suppose. I
14 don't think I had any duties. She's retained as an
15 expert in the Certificate of Innocence and the
16 meaning of that. I -- these are just statutory
17 provisions relating to that, so... But I just
18 wanted to briefly address that.

19 BY MR. TEPFER:

20 Q. Okay. And then wrongfully convicted. Are you
21 familiar whether Section 3-1-2 of the Uniformed Code of
22 Corrections and the definition of persons wrongfully
23 imprisoned under that section, does that include
24 individuals who receive a Certificate of Innocence?

25 A. I'm not familiar with the -- I would guess it

1 went into effect fairly recently or in the last -- I
2 don't know.

3 Q. I'm just asking you whether or not you know
4 whether or not the definition of wrongfully convicted
5 includes individual -- under that section includes
6 individuals who receive certificates of innocence.

7 A. Very likely so, but I -- it's not on the
8 screen, and I -- I didn't review it before today.

9 MR. TEPFER: Okay. I'll show you then now.
10 It's Exhibit 10.

11 (EXHIBIT 10 MARKED FOR IDENTIFICATION)

12 THE WITNESS: Okay.

13 MR. TEPFER: This is, right, Exhibit 10? I
14 keep losing track. Is that right, Falicity? Yeah.
15 Okay.

16 BY MR. TEPFER:

17 Q. This is Plaintiff's Joint 83750 through 83753.
18 And this is, in fact, 730, ILCS 5/3-1-2, and it's
19 definitions. And then if you go to the very last page,
20 it defines wrongfully imprisoned person, which was the
21 term used in Exhibit 9. And 02 refers to people as --
22 "O, wrongfully convicted person means the person has
23 been discharged from prison of the State and has
24 received a Certificate of Innocence from the Circuit
25 Court, as provided in Section 2-702 of the Code of Civil

1 Procedure"; is that correct?

2 MR. STEFANICH: Object to the form. You can
3 answer.

4 THE WITNESS: Yes.

5 BY MR. TEPFER:

6 Q. Okay. Okay.

7 A. And not to argue, but that's an example of --
8 of one of the benefits you get after you win it and --
9 yeah.

10 Q. No, we're agreeing. I don't think we're
11 arguing at all. There's --

12 A. Okay. Sorry.

13 Q. There's a number of benefits you get in
14 addition to petitioning the Court of Claims and monetary
15 compensation, including --

16 A. Right.

17 Q. -- expungement and mental health -- free
18 mental health services, correct?

19 A. Yes.

20 Q. Okay. Are there any others?

21 A. I don't know. I don't know.

22 Q. Okay. Okay. All right. Okay. Are you
23 familiar with 20 ILCS 1015 Section 2?

24 A. No, not off the top of my head. I don't have
25 the number memorized.

1 Q. Okay. Have you ever heard of individuals who
2 receive certificates of innocence getting assistance
3 with job search and placement services?

4 A. No, not -- not to my knowledge. I -- I may
5 have in the past. Sounds like a good deal.

6 Q. Okay. Here's a copy of the statute. Can you
7 see a copy of this statute here?

8 A. Yeah.

9 Q. And it says, "Persons unjustly imprisoned, job
10 search and placement services."

11 A. Can you make the font larger? Is that on my -
12 -

13 Q. That might be above --

14 A. Wait.

15 Q. -- the page --

16 A. There we go. I got it. I got it.

17 Q. Okay.

18 A. Okay. I'm sorry. What part were you reading?
19 Unjustly. Section 2?

20 Q. Yeah. So I'll just read the whole thing. It
21 says, "Persons unjustly imprisoned, job search and
22 placement services. Each local office of the department
23 shall provide each person, to whom this section applies,
24 with job search and placement services." And it sort of
25 lists what those services are. And then I'll skip down.

1 It says, "This section applies to a person who has been
2 discharged from prison of this state if the person
3 received a pardon from the governor, stating that such
4 pardon is issued on the ground of innocence of the crime
5 for which he or she was imprisoned, or he or she has
6 received a Certificate of Innocence from the Circuit
7 Court, as provided in Section 2-702 of the Code of Civil
8 Procedure." Do you see that?

9 A. Yes.

10 Q. Okay. So job placement services is another
11 benefit of receiving a Certificate of Innocence
12 according to the statute, right?

13 A. That's correct.

14 Q. Okay. And that -- the mental health
15 assistance and the job placement services are also not
16 mentioned in your disclosure as a benefit of the
17 Certificate of Innocence, right?

18 A. That's correct.

19 Q. Okay. So it's not really accurate that a COI
20 is a limited remedy -- remedy for compensation; is that
21 right?

22 MR. STEFANICH: Objection. Form.

23 THE WITNESS: I -- I think that's a matter of
24 semantics, and I understand it's part of the cross-
25 examination or whatever, but the purpose and the --

1 you know, you still have to go through these other
2 statutes and meet their elements and satisfy their
3 criteria to get those particular benefits.

4 BY MR. TEPFER:

5 **Q. Right.**

6 A. Certificate of Innocence is about the Court of
7 Claims money, primarily, but

8 **Q. Well, that's what I'm trying to understand. I**
9 **mean, that's certainly one of the bases in the**
10 **disclosure, that it -- that that's the primary basis.**
11 **But I'm just asking -- I've just shown you a bunch of**
12 **other statutes and a bunch of other laws that are**
13 **benefits of the COI, so I'm asking you what your basis**
14 **is for your conclusion that the primary basis is the**
15 **Court of Claims.**

16 MR. STEFANICH: Objection. Asked and answered.
17 You can answer again.

18 THE WITNESS: It -- I think it's the -- sorry.
19 I'm flagging here. The -- the plain language of the
20 statute itself, and, you know, you look where the
21 statute is, what it's updating, what -- and -- and
22 it specifically addresses the means to get person
23 who has been wrongfully imprisoned monetary
24 assistance. And it's if granted, only if granted if
25 that statute is granted, can you seek benefits from

1 other statutes in other codes and systems that have
2 their own elements you must prove. So to me, my
3 statement in the 213 stands.

4 BY MR. TEPFER:

5 **Q. Okay. Is there a Court of Claims statute**
6 **that's relevant to the compensation?**

7 A. There was a Court of Claims system that was
8 replaced, at least for this type of cause of action in
9 the Court of Claims. And that's just it. Most people
10 weren't aware of it, and even those that were rarely
11 pursued it.

12 **Q. Okay. So is -- after the Certificate of**
13 **Innocence statute was enacted and someone received a**
14 **Certificate of Innocence, can you explain to me what**
15 **happens after that happens, in order for the individual**
16 **to seek compensation?**

17 A. Yeah, there's a procedure where they -- you
18 know, the judge signs the orders that show the
19 disposition and that the petitioner of that COI was
20 granted -- you know, was granted relief under that
21 statute. And my understanding is that you -- it's
22 simply taken to the Court of Claims and they start the,
23 you know, procedure to get the money after determining
24 what he's entitled to, how many years he actually spent
25 in the custody, et cetera.

1 Q. Does the Court of Claims enter any order?

2 A. Yes. Well, there's, you know, a series of
3 steps they must take to get a -- you know, government
4 agencies to release money that can go up, you know,
5 several hundred thousand dollars. So yes. But I'm not
6 going to say that I've ever gone through it, you know,
7 myself, or that I -- that I've studied that procedure in
8 any way.

9 Q. Okay.

10 A. As I said I was barely aware. I've -- no
11 one's ever brought it up to me, and I never had it in
12 cases I handled over 20-some years. And -- and I was
13 vaguely aware that it existed and that it was an arduous
14 process to -- to, you know, deal with the Court of
15 Claims in getting money. And -- and then the statute
16 came out in '08, and that's when all this changed.

17 Q. Okay. So, again, to cut to the chase, I guess
18 where I'm getting a little caught up and maybe a little
19 bit confused, and I want to give you a chance to clarify
20 for me, is you made a distinction that the primary --
21 what I understood, and please correct me if I'm wrong,
22 that the primary purpose of a Certificate of Innocence
23 is to seek monetary compensation from the Court of
24 Claims. And when I asked why that was primary, you said
25 something to the effect of that this was --

1 A. Sure.

2 Q. -- all the other benefits we talked about
3 required another act, like whether it was expungement or
4 the going to a different statute in a different
5 procedure that you had to follow. Is that -- that was
6 the distinction you made, correct?

7 A. Yes --

8 MR. STEFANICH: Objection to --

9 THE WITNESS: -- that's -- that's one of them.
10 I'm -- I'm sorry, Brian.

11 MR. STEFANICH: Yeah. Objection to form. You
12 can answer.

13 THE WITNESS: That is one of them. That's, you
14 know, the -- I -- I -- I stand by the statement, you
15 know.

16 BY MR. TEPFER:

17 Q. Okay.

18 A. I mean, again, primary is an adjective, and
19 we're getting into semantics, but yes, that's the
20 primary purpose.

21 Q. Okay. And one of the reasons that you --
22 you're testifying that it would -- it's the primary
23 purpose is because the other purposes or the other
24 benefits take some sort of additional step. And I'm
25 asking -- it appears -- how is that distinct from the

1 additional step in seeking monetary compensation when
2 you have to go through the Court of Claims?

3 MR. STEFANICH: Objection. Misstates her
4 testimony, and asked and answered. You can answer
5 again.

6 THE WITNESS: I -- you know, I don't want to
7 put everybody through my trying to answer that
8 again, but I think, you know, the -- the answer lies
9 in looking at those, you know, corollary statutes
10 themselves. They all have different requirements,
11 different benefits. And the Certificate of
12 Innocence statute, its primary focus was monetary
13 assistance. And I -- and I stand by that. I'm not
14 saying that there aren't other benefits, et cetera,
15 but I -- I don't want to be redundant, so I'll stop.

16 BY MR. TEPFER:

17 Q. Fair. All right. I'm going to try to move
18 on. You -- were you involved in the drafting of the
19 Certificate of Innocence legislation?

20 A. No.

21 Q. Were you consulted on it by any legislator or
22 anyone?

23 A. No.

24 Q. Okay. You didn't sponsor the bill or testify
25 on the bill?

1 A. No.

2 Q. You did testify that you reviewed the
3 legislative history of the COI statute at one point in
4 your career, correct?

5 A. Yes. When it was -- in 2008, whenever it was
6 -- hit the court system.

7 Q. Okay. Do you recall, since 2008, reviewing
8 the legislative history at all?

9 A. Yes.

10 Q. Okay.

11 A. But I am not adept at getting deep into those
12 legislative histories. But I did look at it because I
13 was trying to understand how to litigate it and honor
14 it.

15 Q. Well, and I've done the same, so I'm -- I
16 guess what I'm asking is: As you sit here today, and
17 it's not a memory test, but is there anything that you
18 can specifically point to in the legislative history
19 that supports your firm opinion, which you've reiterated
20 several times, that the primary purpose is to seek
21 compensation from -- of a Certificate of Innocence?

22 A. My memory, for what it's worth, it's not
23 specific, but that's where this belief comes from, that
24 the -- you know, the focus of the statute was the system
25 by where you'll get a monetary relief from the Court of

1 Claims, as opposed to going and filing lawsuits that -
2 you know, et cetera, so...

3 Q. I understand. My very specific question, and
4 I mean, I hate when people do this, but I'll try to ask
5 you just to say yes or no, is can you --

6 A. Okay.

7 Q. -- as you sit here today, can you point -- can
8 you recall anything specific from the legislative
9 history that supports that position?

10 A. No.

11 Q. Okay. You -- and a related opinion, and you
12 just alluded to it, and it's on Page 12 of the
13 disclosure. And I'm just going to read it to you, but I
14 can show you if you'd prefer. But it's on the second to
15 last paragraph of Page 12, and it's the second sentence.
16 It says, "The remedy of receiving a Certificate of
17 Innocence was not intended by the legislature to be used
18 by an individual in a subsequent civil suit against
19 government officials." Do you recall that --

20 A. Yes.

21 Q. -- in the disclosure? Okay. And that's a
22 pretty affirmative statement about what the intent was
23 not; is that a fair assessment?

24 A. Again, we're dancing around semantics. The --
25 the statute does not make, you know, any references to

1 being relevant and admissible evidence in a civil suit
2 against various -- you know, whoever is being sued in
3 civil court. So to me, it's -- it shows the
4 distinction, and unless -- you know, I -- I'm -- I'm no
5 civil rights litigator, but I don't believe -- well,
6 whatever. I stand by my statement.

7 Q. Okay. So I mean, obvious -- are you familiar
8 at -- of any of the litigation in federal court or in
9 state court in Illinois that relates to whether or not a
10 finding of a Certificate of Innocence can be used by an
11 individual in a subsequent civil suit?

12 MR. STEFANICH: Object to form. You can
13 answer.

14 THE WITNESS: No, I haven't studied it or read
15 transcripts or any written, you know, district court
16 or -- you know, opinions such as that, but I have
17 heard that the results of a Certificate of Innocence
18 petition, the successful results for the former
19 criminal defendant, have been admitted in some
20 cases. And when I first heard this some years ago, I
21 was -- I was surprised, you know, but I -- I know
22 it's -- it's been admitted.

23 BY MR. TEPFER:

24 Q. Okay. So I guess I am -- I did bring it up,
25 and this is Exhibit 4 again. I do just really want to

1 focus on this statement, because it -- to me, it reads
2 as a very definitive statement. "The remedy of receiving
3 a Certificate of Innocence was not intended by the
4 legislature to be used by an individual in a subsequent
5 civil suit against government officials." And I
6 understand you stand by that position, but you've also
7 just testified that you've heard that that has been
8 litigated in other civil rights cases and civil suits
9 against government officials, and it has been -- in
10 fact, been admitted. Is that an accurate summary?

11 A. Yeah. I think there's two questions, again,
12 just so we don't have to go back. Yes, I stand by the
13 statement that's written in the 213. And yes, you know,
14 I have heard that COI results have been admitted in
15 federal litigation, civil litigation. I -- I couldn't
16 tell you the context, period.

17 Q. Okay. So have you ever read the case of
18 Patrick v. City of Chicago, 974 F.3d 824, 7th Circuit,
19 2020?

20 A. Last name, Patrick?

21 Q. Yes.

22 A. I don't believe so.

23 Q. Okay. It may be a Patrick you're familiar
24 with. The plaintiff was someone named Deon Patrick, who
25 was the --

1 A. Oh. That's why I asked.

2 **Q. You know who Deon Patrick is?**

3 A. Because I -- I usually didn't follow the cases
4 after they left the criminal justice system, but I did
5 review a lot of district orders, federal district
6 orders, in the process of investigation. But I -- I
7 remember Deon Patrick, the case and --

8 **Q. You remember the -- oh, I'm sorry. Go ahead.**

9 A. No, that's it. I'm going to stop rambling.

10 **Q. You're being fine. You remember the case in**
11 **the criminal context or the post-conviction context. You**
12 **don't know the civil --**

13 A. Right.

14 **Q. -- rights case, right?**

15 A. Right. And I didn't get deep into litigating
16 it. There were several co-defendants. Was this a
17 Daniel Taylor co-defendant? Yeah.

18 **Q. Correct.**

19 A. So I think Daniel was the primary case that I
20 handled, and other people were handling it, too. And I
21 was aware that Dan exists, but I -- and I've never read
22 subsequent - subsequent federal litigation involving Mr.
23 Patrick.

24 **Q. Okay. Are you at all familiar that that's a**
25 **case that had held that it wasn't error or it was at**

1 least not -- it wasn't error for the district court to
2 allow the Certificate of Innocence of Mr. Patrick to be
3 admitted in the civil rights lawsuit against the
4 government?

5 MR. STEFANICH: Objection. Form.

6 THE WITNESS: No, I was not -- not aware of the
7 holding of that case, no.

8 BY MR. TEPFER:

9 Q. Okay. Did you ever read any of the briefing
10 in that case?

11 A. No.

12 Q. And I'm talking about in specific the 7th
13 Circuit federal decision relating that -- at least in
14 part to the Certificate of Innocence.

15 A. No, I have not read it or any part of it.

16 Q. Okay. You've never listened to the oral
17 argument, I assume?

18 A. Oh, no. No.

19 Q. Okay. Okay. All right. There's -- I'm going
20 to go to another part of your disclosure, Page 13. This
21 is -- or it's not your disclosure, but the disclosure
22 regarding your expert testimony. Okay. The second full
23 paragraph here where it starts, "An evidentiary hearing
24 is a process". Do you see that?

25 A. Yes.

1 Q. Okay. And this paragraph deals with
2 evidentiary hearings, and it sort -- and it concludes
3 that the court system views hearings, in which witnesses
4 testify under oath and are subject to cross-
5 examination, as the best avenue for its truth-seeking
6 function. Do you see that?

7 A. Yes.

8 Q. Okay. And, you know, later in your
9 disclosure, you point out that there were no witnesses
10 or testimony in the proceedings related to Mr. Waddy's
11 Certificate of Innocence; is that correct?

12 A. Correct.

13 Q. Okay. So you obviously -- you've been
14 practicing a long time. I know you don't usually do
15 civil practice or you don't at all, but you know what
16 summary judgment is, correct?

17 A. I understand the basic principle.

18 Q. Why don't you explain what you understand as
19 the basic principle?

20 A. That summary judgment is a dismissal on one or
21 more issues in civil litigation, not based on a -- a
22 jury determination or, I guess, a fact hearing. It's a
23 legal decision only, is it not?

24 Q. Sure. So essentially, is it consistent with
25 your understanding that summary judgment may be

1 appropriate where there's no material disputed issues of
2 facts?

3 A. Yes, that's quite possible.

4 Q. Okay. And so -- and I think you've mentioned,
5 in your litigation of COIs when you were in the State's
6 attorney's office, there were a lot of them that were
7 resolved without putting on witnesses or cross-
8 examination, but were just filed through the papers and
9 then the Court would make a determination; did you
10 testify to that earlier?

11 A. Yes. And it -- it also goes to very basic
12 principle in all these matters, is that each case has
13 its unique facts and circumstances, and, you know,
14 that's what determines how it's dealt with --

15 Q. Right.

16 A. -- in a COI or elsewhere.

17 Q. Okay. So there's nothing -- so I guess my
18 question is: Your opinion, there's nothing inherently
19 wrong in deciding a Certificate of Innocence case
20 without hearing testimony or the cross-examination of
21 witnesses if there's no actual disputed facts; is that
22 fair?

23 MR. STEFANICH: Objection. Form.

24 THE WITNESS: Inherently wrong -- I'm sorry.

25 MR. STEFANICH: Yeah. Objection. Form. You

1 can answer.

2 THE WITNESS: Yeah. Inherently wrong is -- I'm
3 not -- but I'm not going to chase it. I -- I'll
4 agree with you. It's -- I'm a little uncomfortable
5 with the terminology, but no, if the -- if the
6 parties have done their review and are comfortable
7 with handling it that way, then fine. I mean just -
8 -

9 BY MR. TEPFER:

10 Q. And if the parties that are served with the
11 Certificate of Innocence decide that they don't want to
12 -- they don't want to dispute any of the facts that are
13 laid out in -- by the petitioner and the Certificate of
14 Innocence, is it improper legally, from your opinion, to
15 review - to make a decision without conducting an
16 evidentiary hearing?

17 A. It's not illegal. It's not improper,
18 illegally, to -- to use your language. No.

19 Q. Okay. Have you read the case of People v.
20 Hood, 2021, Illinois App, First, 162964?

21 A. No. I -- I'm assuming you're talking about a
22 case that came -- that was in federal civil court, as
23 opposed to the criminal case?

24 Q. No, I'm actually not. It's a state court
25 case. The -- it's 20 -- 2021. I'm sorry. Illinois App

1 --

2 A. Okay.

3 Q. -- First, 162964. It's in the First District
4 Appellate Court, and it's People v. Tyrone Hood. I'm
5 sure you've heard the name Tyrone Hood before.

6 A. Yeah. I mean, I had some involvement with it,
7 but I wasn't the primary attorney assigned. But I --
8 yeah, I -- I'm aware of it. I think one of my deputies
9 had it.

10 Q. Okay.

11 A. So --

12 Q. So you're aware of the case of Tyrone Hood and
13 his -

14 A. Washington, was it?

15 Q. Yeah. That's the co-defendant, correct. Wayne
16 Washington. But are you familiar with this case that I
17 mentioned, which I will summarize it for you. It's a
18 case that's reviewing a denial of a Certificate of
19 Innocence for Tyrone Hood.

20 A. No, I'm not familiar with it.

21 Q. Okay. All right. I'm going to go back to
22 your disclosure, and on this -- top of Page 13. We sort
23 of started talking about this before. I want to talk
24 about it a little bit more. One of the things mentioned
25 in the disclosure is, "When served with a petition," and

1 I'm on the first full paragraph, the first sentence,
2 "the Cook County State's Attorney's

3 Office generally has three options: it can
4 intervene and object to the petition, it can take no
5 position on the petition, or it can join the petition."
6 That was something in the disclosure you reviewed,
7 correct?

8 A. Yes.

9 Q. Okay. I mean, you used the word generally. Is
10 there other options without that qualifier of what can
11 happen, or what the state's attorney's office can -- an
12 option of the state's attorney?

13 MR. STEFANICH: Objection to form.

14 THE WITNESS: Well, yes, I suppose, now that
15 we've talked about the word join at length. I --
16 you know, we can get into the semantics, but that
17 was, you know, just a brief overview type of
18 sentence. But, you know, basically, you can
19 litigate it through witnesses or briefs, argument,
20 or you can take no position, as the state's
21 attorney's office does these days, or, you know,
22 theoretically, the prosecutor can stand up and say,
23 you know, we agree with this, we recommend it,
24 whatever. I mean, it's -- again, it goes back to
25 the uniqueness of each individual case and why

1 you're filing a Certificate of Innocence in the
2 first place.

3 BY MR. TEPFER:

4 Q. Okay. You have also alluded to that you're
5 aware that there has been a significant number of
6 Watts-related convictions overturned. You learned about
7 that at some point, right?

8 A. Yes.

9 Q. Okay. And that most of that are since you've
10 left the office, right?

11 A. Yes.

12 Q. And I mean the Cook County State's Attorney's
13 Office.

14 A. Correct.

15 Q. Okay. Do you know how many?

16 A. No, I don't.

17 Q. Do you -- would it surprise you to know that
18 it's more than 200 convictions?

19 A. You know, the last tally I saw was on a
20 Michigan Law School website that follows these things,
21 and I saw that it was around 200, so -- I don't know
22 what the final tally is, but if you're asking if I would
23 be surprised to hear it went over 200, probably not,
24 because I was aware that it was close anyway.

25 Q. I'm also not aware of what the final tally is,

1 and if anyone should know, it should probably be me, so
2 fair enough. Do you -- are you aware in any general
3 sense about the Certificate of Innocence litigation or
4 petitions that have followed the vacation of those
5 convictions?

6 A. No. I'm sorry. I -- I am not.

7 Q. Okay. So you don't know what position the
8 Cook County State's Attorney's Office have taken in any
9 of the petitions that have been filed?

10 A. No, I -- I'm not aware.

11 Q. Okay. Would it surprise you to know that --
12 if I represent it to you, would it surprise you to know
13 that the state's attorney's office has taken what I
14 think you sort of defined as the second position, that
15 no position on any of the cases filed that are generally
16 considered Watts-related?

17 MR. STEFANICH: Objection. Form. You can
18 answer.

19 THE WITNESS: Again, I lost a word there, but I
20 think you asked would I be surprised to know that
21 Kim Foxx's office took the no position -- position
22 in the Watts COIs; is that correct? You asked --

23 BY MR. TEPFER:

24 Q. In the October -- in the 200 or so that have
25 been presented, yeah.

1 A. No, I'm not surprised that they took that
2 position.

3 Q. Okay. Are you aware that in some of those
4 cases, the COI petitions were actually denied?

5 A. So are you saying the State went in, took no
6 position, and then the judge denied the COI?

7 Q. Yes.

8 MR. STEFANICH: And I'm going to -- hold on.
9 I'll object to the form of that question. You can
10 answer.

11 THE WITNESS: Okay. I don't know of any
12 specific cases, but I -- I'm not surprised by any
13 disposition, you know, that would come out of this
14 type of litigation.

15 BY MR. TEPFER:

16 Q. Why not?

17 A. Well, it's happened to me before where Adam
18 Gray, I wanted to grant a new trial, and the judge
19 refused to. And I think finally, I -- I'd left or
20 whatever, wasn't handling it anymore, but it - finally,
21 they had to go to the appellate court to get the judge
22 to issue a simple order that we agreed to draft it. Like
23 I said, you know, it was a cooperative effort, and we,
24 you know, totally agreed that he should have a new
25 trial, and -- and a judge refused to do it. So you

1 know, judges do a lot of things. I'm not saying that --
2 I don't know why a judge would do that, but I guess
3 that's their purview, what -- that's why they sit up
4 there with the black robe on.

5 Q. Right. So I guess, in summary, you know, the
6 judge's role is to ensure that regardless of the
7 positions of the parties, to make sure that the law is
8 complied with. And sometimes the judge --

9 A. Yes, that's -- that's much better stated than
10 I did. It's true.

11 Q. Sure. And so -- and certainly, they might
12 have an opinion that could be reversed later, but they
13 might make their opinion that, despite the fact that the
14 State, in the Certificate of Innocence takes no
15 position, well, I'm going to review what's been
16 presented to me, and I, being the judge, may view that -
17 - you know, it's a backstop, so to speak --

18 A. Right.

19 Q. -- that may -- fair? Okay.

20 A. Yes. And it always goes back to each case
21 turns on its own facts and circumstances.

22 Q. Okay. Now, I want to look at this disclosure
23 again. Are you still looking at -- is it -- is this
24 disclosure still up? Sometimes things look weird on my
25 screen.

1 MR. STEFANICH: It's your screen. Your window
2 of exhibits.

3 THE WITNESS: What's wrong?

4 MR. TEPFER: Is this better now?

5 MR. STEFANICH: No, it's just your home screen
6 now.

7 THE WITNESS: It's --

8 MR. TEPFER: All right.

9 THE WITNESS: Oh.

10 MR. TEPFER: I'm not good at things sometimes.
11 I think I am improved. Am I right now?

12 THE WITNESS: Yes. There it is.

13 MR. TEPFER: Okay. Sorry about that.

14 THE WITNESS: That's all right.

15 BY MR. TEPFER:

16 Q. Okay. Hold on one sec. Okay. One of the
17 things in your disclosure, and I'm looking more at the
18 bottom of 13 now, or the middle bottom, is --

19 A. Okay.

20 Q. -- one of the statements, you say, and we've
21 talked around this quite a bit, is "The fact that the
22 State does not take a position on a petition does not
23 mean that the State believes the petitioner is factually
24 innocent," right?

25 A. Right.

1 Q. Okay. And you stand by that statement, right?

2 A. Yes.

3 Q. Okay. And rather, based on your experience,
4 so this is what you're basing this conclusion on, "There
5 are reasons apart from factual innocence for why the
6 State may take no position on a petition," right?

7 A. Correct. Correct.

8 Q. Okay. And you list an example. One of them
9 is, "The State may not have the resources to effectively
10 litigate a petition for a Certificate of Innocence or
11 may wish to utilize its resources to litigate other
12 active criminal or post-conviction cases." So that's an
13 example, right?

14 A. Yes.

15 Q. Okay. As it applies to Mr. Waddy's case, do
16 you know, one way or the other, whether that was the
17 reason, a resource issue, of why the State took no
18 position?

19 A. No, they didn't -- in that case, they didn't
20 discuss their decision to take "no position" with me.

21 Q. Okay. And you never asked anyone, so it's --
22 any -- asked anyone if it was a resource issue as it
23 related to Mr. Waddy?

24 A. Well, I'd be very hesitant to get into an area
25 of privilege communications with my former employer, but

1 I -- I never -- while I was curious, I never spoke to
2 anybody that had direct knowledge of -- of why there was
3 a change, and -- and that -- take no position, why that
4 started

5 **Q. And that --**

6 A. I don't -- and I have no reliable information,
7 even hearsay, privileged, whatever, as to why.

8 **Q. And you're talking about all Watts related**
9 **cases or just Waddy?**

10 A. Well, as -- as you know, from, you know,
11 personal conversations with me and -- and people in my
12 office, we were just looking at, you know, the big
13 picture here after those three or those -- I -- I don't
14 know how many I handled in the beginning. I remember,
15 you know, three. There might have been another one or
16 two, but we were just dealing with that when I was still
17 involved.

18 **Q. I mean, just to summarize this point, and your**
19 **opinion is that it could be a reason -- a resource issue**
20 **could be a reason why they make no position, but you**
21 **have no idea, one way or the other, if it is a reason as**
22 **it applies to Mr. Waddy?**

23 A. Right. And -- and just to be a pain, I guess,
24 "resource" in my use here is a broad term that's from we
25 don't have the witnesses to, you know, do a successful,

1 proper prosecution and/or the evidence has been
2 destroyed or lost, you know. He said -- we determined,
3 you know, is he entitled to a new trial. And if so, is
4 it possible to even try him again? Do we -- do we want
5 to? There's -- there's myriad considerations and -- I'm
6 sorry. I'm getting tired, but things that we --

7 **Q. Want to take a break?**

8 A. No, I'd rather get it done. I --

9 **Q. Okay.**

10 A. -- is -- there's myriad things we consider
11 into -- going into that decision. And again, I don't
12 know why in the cases that I handled, the Watts cases I
13 handled, I don't know why they -- that position came
14 about, that there is no position. So I'm sorry. I
15 think I've said it a million times. You know, not my
16 fault, but done.

17 **Q. These things have a way of getting repetitive.**
18 **It's a frustration for all of us. I'm sorry. I'm as**
19 **guilty as you, I guess.**

20 A. No, no, no. You're doing your jobs.

21 **Q. Okay. But one of the things you alluded to in**
22 **that answer was that, you know, I think you mentioned**
23 **retrying or whether you can retry the person. Again,**
24 **though, we're talking about certificates of innocence,**
25 **so that decision is already -- I mean, this is a**

1 different procedure than the procedure of whether or not
2 your office is going to decide whether -- the state's
3 attorney's office is going to nolle pros a case; is that
4 fair?

5 A. Yes, that's fair, but they are related, and --
6 and it is a continuous part of one process, like, what
7 effectively are going to be the dispositions of this
8 case, you know, from the middle court to the -- the
9 Court of Claims actions for COIs. So you know, in my
10 mind, they're all connected.

11 Q. So in your experience, is what you're saying,
12 is that the Cook County State's Attorney's Office, in
13 their review of a case, when someone's asking them to
14 review or if it's in court, and a -- while the
15 conviction is still intact, the full panoply of
16 decisions may be reached during that process, meaning
17 that they may agree, you know, what we're going to do is
18 agree to vacate this conviction, dismiss charges, and
19 not -- not intervene on the COI. That decision may all
20 be made sort of during that whole process?

21 MR. STEFANICH: Objection. Form. You can
22 answer.

23 THE WITNESS: I -- I -- can't -- you know,
24 again, that's a -- a confined situation you're
25 giving me, and -- and the situation is fluid, you

1 know. But in my experience, the way our brains work
2 is that if you're at the point and you're looking at
3 the viability of the case itself, at whether it
4 needs a new trial, you know, if you're experienced
5 in these matters, you know what's -- that a
6 Certificate of Innocence, you know, will come, and -
7 - and I think, you know, it -- it made it easier
8 when you have all these Watts cases, you know, to
9 take a general approach. But I have no evidence of
10 that. No one's told me, so -- you know, but it
11 would make sense that they just took a blanket
12 approach. In any event, I don't believe what -- you
13 said is -- it's all done at one time. It depends.

14 BY MR. TEPFER:

15 Q. Right. It depends, but it -- there could be
16 situations where conclusions are made about the position
17 that the office may take on a Certificate of Innocence
18 during the process when they're reviewing the
19 conviction; is that accurate? Sometimes that may
20 happen?

21 A. Sometimes that may happen. It could happen.

22 Q. Okay. All right. You list in the next --
23 there's a line, in the same section we were looking at,
24 about reasons other than factual innocence that the
25 State may not take a position. It says, "The State may

1 also take no position on a petition in circumstances in
2 which they believe the petitioner is guilty, but do not
3 believe that it could adequately rebut the petitioner's
4 evidence contained in the petition". Do you see that?

5 A. Yes.

6 Q. Okay. And you stand by that statement, right?

7 A. Yes.

8 Q. Okay. So I'm having a little bit of trouble
9 understanding that, to be perfectly frank. First of
10 all, nothing in the standard for the Certificate of
11 Innocence, so whether or not to grant a Certificate of
12 Innocence, is contingent on the state attorney's office
13 or the State's position on whether the petitioner is
14 guilty, is there?

15 A. I'm sorry, could you repeat that? I --

16 Q. Sure.

17 A. I -- I don't want to make a mistake and ramble
18 on.

19 Q. Sure. When a court decides -- it's a judge
20 that decides whether or not an individual should receive
21 a Certificate of Innocence, correct?

22 A. Correct.

23 Q. Okay. And there's nothing in the standard or
24 the statute that the Court applies that the State's
25 opinion about the petitioner's -- whether or not he is

1 guilty, that's not part of the standard or what the
2 Court -- the standard the Court applies, right?

3 MR. STEFANICH: Objection. Form. You can
4 answer.

5 THE WITNESS: Are you -- you know, no, it's not
6 part of the burden of proof or -- or the elements, I
7 should say.

8 BY MR. TEPFER:

9 Q. Okay.

10 A. Because, obviously, both the AG and the State
11 can stand -- stand down. But the elements that a court
12 must find present and proven are not -- do not include
13 the State's opinion.

14 Q. Right. That's my question. Is there any
15 experience that you have or examples that you have where
16 the State did take a position of objecting --
17 intervening and objecting in the Certificate of
18 Innocence, even though they did not believe that they
19 could adequately rebut the petitioner's evidence?

20 A. Not that I'm aware of.

21 Q. Okay. So it is not -- is it fair to say it's
22 not your opinion, or is it, that a judge should deny a
23 Certificate of Innocence if the State believes the
24 petitioner is guilty, but can't muster the evidence to
25 rebut petitioner's allegations?

1 MR. STEFANICH: Objection. Form. You can
2 answer.

3 THE WITNESS: Not to be difficult, but I don't
4 see how a judge would know what the State believes
5 or not, unless the State intervened and
6 participated, because it would be improper for them
7 to talk ex parte, and it'd be -- and the defense
8 would object if the State started making arguments
9 when they already taken no position. So I'm a
10 little troubled by that question, but I'm trying to
11 think -- I'm trying to answer what you're looking
12 for.

13 BY MR. TEPFER:

14 Q. Let's do it as a hypothetical. Maybe --

15 A. Okay.

16 Q. -- as an expert, we get to ask you
17 hypothetical questions and --

18 A. Okay. Yes.

19 Q. -- maybe -- so let's say there was a scenario
20 where the State got up in court and the petition was
21 filed, and the State said, Your Honor, as the State, we
22 don't personally believe this person is innocent, but we
23 do not believe we can rebut their evidence that is in
24 this petition. Is it your expert opinion that under
25 those circumstances, the judge should deny the petition

1 because of the State's stated petition -- position?

2 A. No, the judge should grant or deny the
3 petition based on the records, the evidence, you know,
4 again, the elements, not on state's attorney comments in
5 court that aren't backed up by evidence, et cetera.

6 Q. Okay. That's all. All right. I'm going to
7 go to Page 14 of the disclosure. And right at the top,
8 the first paragraph, it says, "There is no" -- are we
9 shared screen? Okay. "There is no indication from the
10 record and the materials reviewed that the State
11 notified the police officers of the petition or afforded
12 them an opportunity to object to the petition." Do you
13 see that sentence?

14 A. Yes.

15 Q. Yeah. Okay. I think earlier -- and actually,
16 I know earlier in the disclosure on Page 12, you wrote,
17 on the very bottom -- or I'm sorry. It was disclosed at
18 the very bottom in the disclosure you reviewed. "If the
19 conviction or not guilty judgment is entered in Cook
20 County, the petition must be served on the Cook County
21 State's Attorney's Office and the Illinois Attorney
22 General's Office. Police officers who participated in
23 an underlying arrest are generally not notified about
24 the filing of a petition for a Certificate of
25 Innocence." It goes on to the next page. Do you see

1 that?

2 A. Yes.

3 Q. Okay. So I just wanted to quickly clarify.
4 You're not saying that anyone did anything wrong in not
5 notifying the police officers of Mr. Waddy's petition
6 for a Certificate of Innocence, right?

7 A. No, we're not -- I'm not -- I'm not alleging
8 any misconduct, no, or did anything wrong. I -- you
9 know.

10 Q. And not by me, as Mr. Waddy's counsel, you're
11 not alleging that I did something wrong by not notifying
12 the police officers, but you're also not assuming it's
13 true that the police officers weren't notified of Mr.
14 Waddy's petition? You're not -- you're also not saying
15 the Court or the state's attorney's office did anything
16 wrong in not notifying them either; is that accurate?

17 A. First of all, I think there's a couple
18 questions there. Of course. In no way am I casting
19 aspersions on you. As you asked me before, I don't -- I
20 never found any problems at all with you, and I
21 certainly don't think that. I'm just making the point
22 that the process is somewhat odd that you -- you know,
23 the AG will get notification, even though they rarely
24 handle criminal cases that get into COI. You know, they
25 -- they have specialized areas. And the police, the

1 victims, the witnesses, et cetera, are not informed.
2 But there's -- there's nothing in the statute that
3 requires police officers, lab employees, et cetera to be
4 informed, but, you know, it -- it would make the process
5 better if -- if they were involved, all of these people.
6 And that's my opinion.

7 **Q. That's fair. And certainly, the attorney**
8 **general could have notified the police officers involved**
9 **or the state's attorney if they wanted --**

10 A. Yeah.

11 **Q. -- if they wanted to.**

12 A. Yes. Absolutely.

13 **Q. All right. The --**

14 MR. TEPFER: Sorry. How much time do we have
15 left, Leticia -- Falicity? I'm sorry.

16 THE REPORTER: We are at 2 hours and 57
17 minutes.

18 MR. TEPFER: Serious? Okay.

19 BY MR. TEPFER:

20 **Q. All right. Real quickly, your conclusions on**
21 **Waddy were that the State did not intervene for reasons**
22 **-- not -- State did not in a reason -- intervene for**
23 **reasons not based on innocence; is that right?**

24 A. Yeah.

25 **Q. Okay.**

1 A. Did that intervene not based on innocence? I'm
2 sorry, is that written somewhere? Let me --

3 Q. Yeah, it's on --

4 A. I didn't get much sleep, so I apologize. I --

5 Q. Oh, I'm sorry you didn't get much sleep.

6 A. No, it's nothing to be sorry, but I'm just old
7 and I'm run -- running out of steam after a few hours
8 here. It was fine earlier. Can you repeat that? Not --

9 Q. Yeah. Is it your opinion in this case that
10 the reason the State did not intervene in this case was
11 for reasons other than its belief in Mr. Waddy's
12 innocence?

13 MR. STEFANICH: Objection.

14 THE WITNESS: It's quite possible, but I -- I
15 don't know, obviously. The -- the -- whoever the
16 person was that -- that made this decision did not
17 disclose it to me.

18 BY MR. TEPFER:

19 Q. Okay. Well, one of the things is in the
20 disclosure, it said, "Ms. Stack will opine that it is
21 her opinion, to a reasonable degree of certainty, that
22 the State took no position on Mr. Waddy's petition for
23 reasons other than innocence". Do you see that?

24 A. Yes. But -- but that's a little different
25 than asking the question you asked, so -- but --

1 Q. Okay. But you stand by --

2 A. -- yes, I stand by --

3 Q. -- your statement? Okay.

4 A. I stand by what's in the 213, yes.

5 Q. Okay.

6 A. And that statement.

7 Q. And one of them is because if you had the
8 State believe Mr. Waddy was factually innocent, it would
9 have actually joined the petition. That's one of the
10 reasons you come to that conclusion, right?

11 A. It's -- it's one of the factors.

12 Q. Okay.

13 A. Yes.

14 Q. And we've been through this. I'm going to try
15 to be quick because I'm running out of time. I don't
16 want to cut you off. But you don't have any specific
17 memory of any specific case where the State has actually
18 joined a petition?

19 MR. STEFANICH: Objection. Asked and answered.

20 THE WITNESS: No.

21 BY MR. TEPFER:

22 Q. Okay. And then the other reason you list in
23 the disclosure -- is listed in the disclosure is, "In
24 Ms. Stack's experience, the fact that the State made the
25 decision to take no position within a short period of

1 time after the petition was filed signifies that a
2 belief in Mr. Waddy's innocence was not a driving force
3 of the State's decision." Is that another reason you
4 believe it was not based on their --

5 A. It -- yeah, it's another one of the factors.

6 Q. Okay. And actually, the record will reflect
7 that, you know, the Certificate of Innocence was granted
8 six days after the petition was filed at the first court
9 date. So that's one of the reasons, right?

10 MR. STEFANICH: Objection. Form. You can
11 answer.

12 THE WITNESS: It's -- it's part of the totality
13 of circumstances that isn't necessarily related to
14 actual factual -- factual innocence. Yes.

15 BY MR. TEPFER:

16 Q. Okay. But are you aware that I, on behalf of
17 Mr. Waddy, sent materials in December -- on December 1st
18 of 2017 to the Cook County State's Attorney's Office
19 that asked them to review Mr. Waddy's conviction and
20 agree to vacate the conviction?

21 A. No, I'm not aware of correspondence between
22 you and somebody else in the state's attorney's office.

23 Q. Okay. So you never have reviewed a letter
24 that I wrote to Nancy Adduci and Mark Rotert that asked
25 them to -- that provided them materials related to Mr.

1 Waddy's case and asked them to agree to take action and
2 vacate the conviction?

3 A. No, I did not.

4 Q. Okay. And you are aware, though, however --

5 MR. STEFANICH: Josh?

6 BY MR. TEPFER:

7 Q. -- that it was --

8 MR. TEPFER: What?

9 MR. STEFANICH: I think you're -- I think
10 you're out of time.

11 MR. TEPFER: Okay. I have a couple more
12 questions.

13 BY MR. TEPFER:

14 Q. You are aware, however --

15 MR. STEFANICH: Okay. But the deposition is
16 over. We're at three hours, right?

17 THE REPORTER: Yes. We're at 3:02.

18 MR. STEFANICH: Okay. So we're going to
19 conclude the deposition.

20 MR. TEPFER: Okay. I may be asking for a few -
21 - I think I could do it in five or ten more minutes,
22 so I may need to go to court to ask for that, if you
23 want to take a break, or we may need to discuss
24 that.

25 MR. STEFANICH: No. We're going to conclude

1 the deposition.

2 MR. TEPFER: Okay. Nice seeing you, Celeste.
3 Sorry.

4 THE WITNESS: Yeah. You, too. And --

5 THE REPORTER: Give me one second. Before we
6 do go off record, I just have to get a couple orders
7 from everybody. First off, would we like to read or
8 waive today?

9 MR. STEFANICH: Read.

10 THE REPORTER: We'll read? Okay. And then
11 what is a good e-mail address for that to be sent
12 to?

13 MR. STEFANICH: Yeah, it's bstefanich,
14 B-S-T-E-F-A-N-I-C-H, at Hale, H-A-L-E, and Monico,
15 A-N-D-M-O- N-I-C-O, .com.

16 THE REPORTER: Okay. Thank you. And then
17 Mr. Tepfer, how would you like your order today?

18 MR. TEPFER: I will not order at this very
19 moment.

20 THE REPORTER: No order? And that's also a no
21 video order as well?

22 MR. TEPFER: Correct.

23 THE REPORTER: Okay. We'll do no video for
24 that. And then Mr. Stefanich, how would you like
25 your order today?

1 MR. STEFANICH: Let's do it by e-mail.

2 THE REPORTER: E-mail? Okay. And then would
3 you like a video order as well?

4 MR. STEFANICH: No.

5 THE REPORTER: No? Okay. And then Mr. --

6 MR. PALLES: I'm going to hold off, Falicity.
7 I'm sorry.

8 THE REPORTER: And that was Mr. Palles?

9 MR. PALLES: Yes.

10 THE REPORTER: Okay. Hold off on those ones.
11 All right. And then let's see. Next, I have
12 Mrs. Morrison. Would you like an order today?

13 MS. MORRISON: No, thank you.

14 THE REPORTER: No, thank you? All right. No
15 video. And then it looks like I have Mr. Gainer
16 left. Would you like an order today?

17 MR. GAINER: No, ma'am. Thank you.

18 THE REPORTER: All right. And then let me get
19 us off record.

20 (DEPOSITION CONCLUDED AT 2:24 P.M. CT)

1 CERTIFICATE OF DIGITAL REPORTER

2
3
4 I do hereby certify that the witness in the foregoing
5 transcript was taken on the date, and at the time and
6 place set out on the Title page hereof, by me after
7 first being duly sworn to testify the truth, the whole
8 truth, and nothing but the truth; and that the said
9 matter was recorded digitally by me and then reduced to
10 typewritten form under my direction, and constitutes a
11 true record of the transcript as taken, all to the best
12 of my skill and ability. I certify that I am not a
13 relative or employee of either counsel and that I am in
14 no way interested financially, directly or indirectly,
15 in this action.

16
17
18
19
20 
21

22 FALICITY NUNEZ,

23 DIGITAL REPORTER/NOTARY

24 MY COMMISSION EXPIRES: 08/22/2027

25 SUBMITTED ON: 10/24/2023

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