IN THE SUPREME COURT OF IOWA
NO. 24-1123

DONNIE LEE WYLDES, JR.,

Applicant-Appellant,

v.

STATE OF IOWA

Respondent-Appellee,

On Appeal From The District Court For Wayne County
The Honorable Elisabeth Reynoldson
Wayne Co. No. PCCV022960

Brief Of The Innocence Network As *Amicus Curiae* In Support Of The Applicant-Appellant

---

Jesse Linebaugh, AT0004744
Joseph R. Quinn, AT0015363
FAEGRE DRINKER BIDDLE & REATH LLP
801 Grand Avenue, 33rd Floor
Des Moines, Iowa 50309
Telephone: (515) 248-9000
Facsimile: (515) 248-9010
jesse.linebaugh@faegredrinker.com
joe.quinn@faegredrinker.com

Attorneys for Amicus Curiae, The Innocence Network

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases **Page(s)**

Statutes, Rules & Regulations

Other Authorities

IDENTITY AND INTEREST OF AMICI CURIAE

The Innocence Network is an affiliation of organizations dedicated to providing pro bono legal and investigative services to individuals seeking to prove innocence of crimes for which they have been convicted. The Network also works to redress the underlying causes of wrongful convictions. As of December 2016, the efforts of the Innocence Network had resulted in the exonerations of a total of 3,561 individuals.[1] With its organizations located across the United States and around the world,[2] the Innocence Network is committed to ensuring individuals

---

[1] *See* The National Registry of Exonerations Homepage, http://www.law.umich.edu/special/exoneration/Pages/about.aspx (last visited July 22, 2024).

[2] Innocence Network member organizations include: the Actual Innocence Clinic at the University of Texas, After Innocence, Alaska Innocence Project, Association in Defense of the Wrongly Convicted (Canada), Arizona Innocence Project, Boston College Innocence Program, California Innocence Project, Center on Wrongful Convictions, Committee for Public Counsel Services Innocence Program, Connecticut Innocence Project, Downstate Illinois Innocence Project, Duke Center for Criminal Justice and Professional Responsibility, The Exoneration Initiative, Georgia Innocence Project, George C. Cochran Mississippi Innocence Project, Griffith University Innocence Project (Australia), Hawaii Innocence Project, Idaho Innocence Project, Illinois Innocence Project, Innocence and Justice Project at the University of New Mexico School of Law, Innocence Institute of Point Park University, Innocence Network UK, Innocence Project Arkansas, Innocence Project of Florida, Innocence Project of Minnesota, Innocence Project at UVA School of Law, Innocence Project New Orleans, Innocence Project New Zealand, Innocence Project Northwest Clinic, Innocence Project of South Dakota, Innocence Project of Texas, Irish Innocence Project at Griffith College, Justice Brandeis Innocence Project, Justice Project, Inc., Kentucky Innocence Project, Life After Innocence,

who made the difficult decision to enter a guilty plea or are wrongfully convicted are permitted to pursue postconviction relief upon discovery of exculpatory evidence. To that end, the Innocence Network has an interest in freeing the judicial system of any barriers to the pursuit of postconviction relief and exoneration of individuals who are actually innocent.

Medill Innocence Project, Miami Innocence Project, Michigan Innocence Project, Mid-Atlantic Innocence Project, Midwestern Innocence Project, Mississippi Innocence Project, Montana Innocence Project, Nebraska Innocence Project, New England Innocence Project, New York Law School Post-Conviction Innocence Clinic, North Carolina Center on Actual Innocence, Northern Arizona Justice Project, North California Innocence Project, Office of the Public Defender (State of Delaware), Office of the Ohio Public Defender, Wrongful Conviction Project (State of Ohio), Ohio Innocence Project, Oklahoma Innocence Project, Oregon Innocence Project, Osgoode Hall Innocence Project (Canada), Pace Post-Conviction Project, Palmetto Innocence Project, Pennsylvania Innocence Project, Reinvestigation Project (Office of the Appellate Defender), Resurrection After Exoneration, Rocky Mountain Innocence Center, Sellenger Centre Criminal Justice Review Project (Australia), Texas Center for Actual Innocence, Texas Innocence Network, Thomas M. Cooley Law School Innocence Project, Thurgood Marshall School of Law Innocence Project, University of Baltimore Innocence Project Clinic, University of British Columbia Law Innocence Project (Canada), University of Leeds Innocence Project (UK), Wake Forest University Law School Innocence and Justice Clinic, Wesleyan Innocence Project, West Virginia Innocence Project, Wisconsin Innocence Project, and Wrongful Conviction Clinic at Indiana University.

INTRODUCTION

It is self-evident that the incarceration of an innocent person represents a failure of the justice system. For this reason, it is important that courts fairly and effectively apply the appropriate rules and standards in considering new exculpatory evidence in the context of a post-conviction relief proceeding.

The presentation of new exculpatory expert evidence to address advanced methods of firearm and toolmark examination and analysis is an issue that has been addressed in other courts in the recent past. This Court should take a similar approach as those cases to allow for the exoneration of an individual on the basis of new expert evidence and science that would shed new light on a firearm and toolmark examination or ballistic analysis done more than thirty-five years ago.

The legal system must supply safeguards so that the innocent may avail themselves of the latest scientific standards and expert evidence. Iowa's postconviction relief statute—permitting a person to seek relief if "[t]here exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence *in the interest of justice*,"—is one such safeguard. *See* IOWA CODE § 822.2(1)(d) (emphasis added). The Legislature guaranteed this relief to "[a]ny person who has been convicted…" *Id.* Preventing an applicant from seeking relief under section 822.2(1) because the district court has not properly

applied the appropriate legal rule or standard would undermine the plain wording of the law and sound public policy.

Donnie Lee Wyldes, Jr. ("Mr. Wyldes") was convicted in 1987 based in significant part on forensic evidence and testimony that does not meet today's standards. This Court should follow the lead of other appellate courts around the country that have overturned convictions and granted new trials based on new forensic techniques and expert testimony based on modern science that demonstrate bullets and shell casings *do not* in fact match subject firearms and like here, casings cannot be matched to other casings. Mr. Wyldes should be afforded this same opportunity to demonstrate his actual innocence.

ARGUMENT

I. Iowa Recognizes Actual Innocence Claims to Challenge Convictions in Iowa State Courts

Schmidt v. State, decided by this Court in 2018, created a freestanding claim for actual innocence to challenge a conviction in state court. 909 N.W.2d 778, 795 (Iowa 2018). Mr. Wyldes' application for postconviction relief (PCR) presents an actual innocence claim under Iowa Code § 822.2(1)(a), arguing there is new evidence that must be considered, and that his conviction violates the Iowa and United States Constitutions. The district court appears to—at best—have only conducted a cursory review of this issue.

Per *Schmidt*, for relief to be granted on a freestanding actual innocence claim, "the applicant must show by clear and convincing evidence that, despite the evidence of guilt supporting the conviction, no reasonable fact finder could convict the applicant of the crimes for which the sentencing court found the applicant guilty in light of all the evidence, including the newly discovered evidence." *Id.* at 797. As *Schmidt* acknowledged, actual innocence claims are not limited to just the discovery or processing of new DNA evidence, but rather apply to individuals who are exonerated by any "reliable means." *Id.* at 789.

A year after *Schmidt* was decided, this Court upheld the analysis and further acknowledged that the "liberty interest of a factually innocent person to be free from conviction and criminal sanction" is a critically important freedom that courts alone hold the power to protect. *Dewberry v. State*, 941 N.W.2d 1, 5 (Iowa 2019). Actual innocence claims are some of the most important questions this Court faces. The continued incarceration of a defendant who is "factually and actually innocent" of the crime of which they were convicted violates the Due Process Clause of the Iowa and United States Constitutions, depriving an innocent person of their freedom. *Schmidt*, 909 N.W.2d at 797; *see Dewberry*, 941 N.W.2d at 5. "For an applicant to succeed on a freestanding actual-innocence claim, the applicant must show by clear and convincing evidence that, despite the evidence of guilt supporting the

conviction, no reasonable fact finder could convict the applicant of the crimes for which the sentencing court found the applicant guilty in light of all the evidence, including the newly discovered evidence." *Schmidt*, 909 N.W.2d at 797.

Petitioners must therefore meet a "clear and convincing" evidentiary standard for an actual innocence claim, an undoubtedly high bar. *Schmidt*, 909 N.W.2d at 797. Yet, Iowa courts are obligated by the applicable federal and state constitutional standards to fairly assess the likely impact of the new evidence on a jury, considering the entire body of evidence and giving due regard to the role of the jury in resolving the plausibility of various scientific assessments. The court should examine all the evidence that the convicting jury was *not* exposed to, in order to fairly assess its likely cumulative impact and whether, in the context of the entire body of evidence, it is reasonably likely that the jury would have had a reasonable doubt if it had been presented with all the evidence the postconviction court received. Importantly, in Iowa, actions for postconviction relief "are not criminal proceedings, but rather are civil in nature." *Jones v. State*, 479 N.W.2d 265, 269 (Iowa 1991) (citations omitted) (emphasis in original). As such, "[a]ll rules and statutes applicable in civil proceedings including pretrial and discovery procedures are available to the parties." IOWA CODE § 822.7; *see also Nuzum v. State*, 300 N.W.2d 131, 132–33 (Iowa 1981)

("Rules and statutes governing the conduct of civil proceedings are applicable to postconviction proceedings.").

The concept of a freestanding actual innocence claim created by *Schmidt* has been cited a number of times since 2018 by Iowa's courts.[3] In at least one case, the

[3] *See Dewberry v. State*, 941 N.W.2d 1, 6 (Iowa 2019) (denial of PCR application for guilty plea to robbery in the first-degree); *Leonard v. State*, No. 19-1859, 2021 WL 1400704, at *7 (Iowa App. Apr. 14, 2021) (denial of pro se PCR application for guilty pleas to two counts of second-degree robbery); *Brewbaker v. State*, No. 18-1641, 2020 WL 5944205, at *2 (Iowa App. Oct. 7, 2020) (denial of PCR application for jury conviction of misdemeanor third-degree harassment); *Cockhren v. State*, No. 22-1840, 2023 WL 6620355, at *1 (Iowa App. Oct. 11, 2023) (denial of PCR application for *Alford* plea to second-degree burglary and guilty plea to two counts of domestic abuse assault and third-degree criminal mischief); *Russell v. State*, No. 21-0974, 2022 WL 17481880, at *3 (Iowa App. Dec. 7, 2022) (denial of PCR application for jury conviction of second-degree murder); *McKinley v. State*, No. 21-0712, 2022 WL 610564, at *1 (Iowa App. Mar. 2, 2022) (denial of PCR application for guilty plea to second-degree murder and second-degree sexual abuse); *Williams v. State*, No. 19-1817, 2020 WL 7385279, at *2 (Iowa App. Dec. 16, 2020) (denial of fourth PCR application for part guilty plea part jury conviction for robbery in the first-degree, assault while participating in a felony, and firearm possession); *Baker v. State*, No. 18-1209, 2020 WL 1049821, at *3 (Iowa App. Mar. 4, 2020) (denial of fourth PCR application for jury conviction of first-degree burglary, attempted burglary, stalking, possession of marijuana, assault, theft, and domestic abuse); *Bennett v. State*, No. 18-1586, 2019 WL 4297856, at *1 (Iowa App. Sept. 19, 2019) (denial of PCR application for assault); *Miller v. State*, No. 17-1789, 2019 WL 2145691, at *1 (Iowa App. May 15, 2019) (denial of PCR application for jury conviction of first-degree murder); *Hering v. State*, No. 21-0688, 2022 WL 1487111, at *1 (Iowa App. May 11, 2022) (denial of third PCR application for jury conviction of first-degree murder and attempted murder); *Ockenfels v. State*, No. 20-0074, 2021 WL 609063, at *1–2 (Iowa App. Feb. 17, 2021) (denial of PCR application for *Alford* plea to forgery and guilty plea to third-degree burglary); *Campbell v. State*, No. 18-1052, 2020 WL 105086, at *1 (Iowa App. Jan. 9, 2020) (denial of pro se PCR application for

district court properly applied the *Schmidt* standard and granted post-conviction relief. *See Fugenschuh v. State*, "Order Granting Post-Conviction Relief," Case No. PCCE086050 (Iowa Dist. Ct. Polk Cnty. Sept. 3, 2021).

In *Fugenschuh*, the district court properly considered video capturing the incident that demonstrated by clear and convincing evidence that Fugenschuh had not committed the traffic violation he was previously convicted of committing. *Id.* at 5. The exculpatory video evidence—obtained from the squad car and body cameras of the officers involved—was not shown in traffic court because: (1) discovery was not allowed in traffic court (and therefore Fugenschuh did not have a copy in his possession), and (2) the state did not bring a copy with them or otherwise intend to use the video at trial. *Id.* at 3. In ruling on Fugenschuh's application for post-conviction relief, the district court reviewed the video (the exculpatory evidence) and found "by clear and convincing evidence that Fugenschuh [was] actually innocent of the traffic crime for which he was convicted." *Id.* at 5. This was *despite* the officers involved providing testimony at both the trial and PCR stage that

---

jury conviction of first-degree burglary, second-degree criminal mischief, and assault); *Williams v. State*, No. 17-1195, 2018 WL 3471601, at *1 (Iowa App. July 18, 2018) (denial of PCR application for jury conviction of first-degree murder); *Shaffer v. State*, No. 19-0950, 2021 WL 592914, at *1, *7 (Iowa App. Jan. 21, 2021) (denial of PCR application for *Alford* plea to second-degree arson, second-degree burglary, and two counts of possession of a controlled substance).

attempted to call into question the Court's ultimate conclusions drawn from its review of the video. *Id.* at 6.

As *Fugenschuh* demonstrates, post-conviction relief based on actual innocence has already found success in Iowa courts, and Mr. Wyldes' case presents nearly identical circumstances. The district court's summary disposition of Mr. Wyldes' actual innocence claim provides no explanation of what the court actually analyzed, and simply concluded that Mr. Wyldes' actual innocence claim failed. As demonstrated by *Fugenschuh*, the *Schmidt* standard requires a more robust analysis of the evidence presented by Mr. Wyldes. The court should instead fully review the new ballistic evidence and conduct a full analysis as opposed to arriving at a cursory conclusion.

To that end, the failure to fully apply *Schmidt* may result in the continued, unjust incarceration of an innocent individual. "'It is far worse to convict an innocent person than to acquit a guilty one' such that 'the scale tips in favor of the [defendant's] interest.'" *Schmidt*, 909 N.W.2d at 797 (quoting *Miller v. Comm'r of Corr.*, 242 Conn. 745, 700 A.2d 1108, 1130–31 (1997)). The protections guaranteed by both the federal and Iowa Constitutions must be rigorously safeguarded, maintained, and reevaluated by Iowa courts. *See Herrera v. Collins*, 506 U.S. 390, 420 (1993) (O'Connor, J., concurring). The power and resources of a single

criminal defendant as a postconviction relief applicant pale in comparison to those of the State. These imbalances inherent in the very nature of a criminal investigation itself, controlled at all times by law enforcement, create a wide informational disparity. The substantial risk and irreparable harm of wrongful conviction that criminal defendants face because of improper evidence is a key reason behind the existence of actual innocence claims. Continuing to imprison an actually innocent defendant cannot be squared with fundamental notions of justice.

The standard articulated by this Court in *Schmidt* and upheld in *Dewberry* requires a particular analysis for an actual innocence claim in the face of newly discovered evidence. *Schmidt*, 909 N.W.2d at 797. While this may be a demanding standard, courts in other jurisdictions have granted post-conviction relief based on similar standards if a wrongfully convicted petitioner can show their actual innocence by "clear and convincing evidence" that no reasonable finder of fact could have convicted them based on newly discovered evidence or shifts in forensic science. *See e.g.*, *Ex Parte Grant*, 622 S.W.3d 392, 393 (Tex. Crim. App. 2021); *Bush v. Commonwealth*, 813 S.E.2d 582, 587–88 (Va. Ct. App. 2018) (granting writs of actual innocence after petitioner showed his innocence by clear and convincing evidence); *Seward v. State*, 130 A.3d 478, 485 (Md. 2016) (rejecting interlocutory appeal of writ of actual innocence granted by trial court). This Court should look to

cases where courts considered exculpatory evidence beyond just newly discovered DNA evidence. *See, e.g.*, *Ex Parte Grant*, 622 S.W.3d at 396 (noting DNA evidence, indictment of another individual, and newly eyewitness testimony contributed to actual innocence evidence) (Richardson, J. concurring); *Bush*, 813 S.E.2d at 802–03 (considering a confession, new witness testimony, and handwriting evidence); *People v. Griffin*, 240 N.E.3d 479, 497 (Ill. 2024) (finding petitioner had set forth a colorable claim for actual innocence based on two new witness affidavits).

Providing a pathway for wrongfully convicted defendants to make a claim for their actual innocence serves no purpose if it is not equitably and justly evaluated across Iowa courts for all who come before the bench. The importance of this formal gateway to relief is shuttered when entrance remains inaccessible.

II. Numerous Individuals Have Encountered the Same Situation Currently Faced By Wyldes, and Have Successfully Petitioned for Post-Conviction Relief.

The essential facts of Mr. Wyldes' case are not unique or new. Many individuals have been convicted and incarcerated due to improper firearm identification methods or expert testimonies that are later proven to be inaccurate or false. However, many of these individuals were able to regain their freedom after receiving another opportunity to have the firearm and bullet or casing identifications

reanalyzed by scientifically accepted methods or by having new experts testify about the findings.

Consider the case of Patrick Pursley, who was convicted in 1993 in Illinois for a fatal shooting. *See People v. Pursley*, No. 2-17-0227, 2018 WL 2095855, at *5 (Ill. App. Ct. May 2, 2018). At trial, his conviction was based largely on the state's firearms expert who testified that a handgun found at Pursley's apartment was the same weapon used in the murder because visible marks found on the bullets acted like a "fingerprint" for the gun. *Id.* at *2. The jury found the firearm identification persuasive and Pursley was given a life sentence without parole. *Id.*

While serving his time, Pursley's case failed multiple attempts for appeal and post-conviction relief. *Id.* However, in 2007 the Illinois legislature amended the state's Code of Criminal Procedure to allow for ballistics re-testing using the newly available Integrated Ballistics Identification System. *Id.* at *3. Pursley filed a motion to have the casings retested, and the court granted the motion after concluding that "IBIS testing had the potential to produce new, noncumulative evidence." *Id.*

Both the firearm and recovered casings were sent for IBIS testing. *Id.* at *4. The IBIS system failed to return any digital matches or correlations between the firearm and casings. *Id.* Moreover, two Illinois State Patrol examiners independently

reviewed the results, and both determined the results were inconclusive as to whether the bullets were fired from the handgun. *Id.* The court granted Pursley a new trial, believing the new evidence was noncumulative and would likely change the result on a retrial. *Id.* at *14.

After a bench trial, including testimony regarding the IBIS analysis, the circuit court entered a judgment of acquittal. *People v. Pursley*, 222 N.E.3d 894, 904 (Ill. App. Ct. 2022). The court noted "evidence [from the original trial] was scant compared to more recent standards," and observed that upon review, Pursley's experts "demonstrated conclusively" that the recovered casings were not fired from the weapon found at Pursley's apartment. *Id.*

Pursley's case is just one of a number of similar cases from across the country where new evidence including ballistic examination methodologies has been used to vacate wrongful convictions. Just like in Pursley's case, the Association of Firearms and Toolmark Examiners methodology relied on by the examiner in Mr. Wyldes' first trial is now outdated and unreliable.

Next consider Darrell Siggers, who also faced a conviction due to inaccurate firearm identification. *Siggers v. Alex*, No. 22-1182, 2023 WL 5986603 (6th Cir. 2023). Siggers was convicted of first-degree murder and possession of a firearm in Michigan in 1984. *Id.* at *1. Similar to *Pursley*, Siggers' conviction was mainly

based on the statements of an expert witness, a Detroit Police Department employee, who testified the shell casings from the crime scene were linked to Siggers' gun. *Id.* at *2. This resulted in the jury convicting Siggers and the judge sentencing him to life in prison. *Id.* In the decades that followed, Siggers challenged the conviction in both state and federal court, failing each time. *Id.* It was not until 2018 that Siggers finally received relief after a firearms expert authored a report showing the testimony matching the shell casings was "wholly inaccurate." *Id.* The prosecution agreed, noting "we think a different result [in Sigger's trial] would have been probable" without the ballistic evidence. *Id.*; *see also* Possley, Maurice, "Darrell Siggers," The National Registry of Exonerations, Michigan Law (June 23, 2024), available (last accessed Aug. 8, 2024).

In yet another example, in 2020 a Michigan court granted Desmond Ricks relief from judgment from a second-degree murder conviction after it was determined analysis conducted on bullets by the Detroit Police Department was insufficient to tie them to a firearm recovered from the scene. *See State v. Ricks*, "Stipulated Order Granting Defendant's Successive Motion for Relief from Judgment," Case No. 92-003680 (Mich. Cir. Ct.—Wayne Cnty. Aug. 5, 2020). Following Ricks' petition for post-conviction relief, prosecutors had the spent rounds retested by the Michigan State Police crime lab and consulted with the

Bureau of Alcohol, Tobacco, Firearms, and Explosives. *Id.* at 2–3. After testing the bullets against the FBI's General Rifling Characteristics Standards, it was affirmed that it was "inconclusive" whether the bullets were fired from the suspect firearm. *Id.* at 3. The court found that the inconsistency between the updated Michigan State Police analysis and the Detroit Police Department analysis warranted granting Ricks a new trial. *Id.* at 3–4.

Finally, consider the case of Anthony Ray Hinton, who was convicted of two murders and sentenced to death row in 1985. *Hinton v. Alabama*, 571 U.S. 263, 264 (2014). At trial, the state's main strategy was to link Hinton to a robbery through a forensic analysis of bullet casings and a firearm found at Hinton's home. *Id.* at 265. A police investigator testified as a firearm expert and stated the bullets from the crime scenes all came from the gun found under Hinton's mother's mattress. *See* Possley, Maurice, "Anthony Hinton," The National Registry of Exonerations, Michigan Law (Aug. 1, 2017), available https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4669 (last accessed Aug. 9, 2024). Despite there being no other physical evidence, such as fingerprints that would have put Hinton at the crime scene, the jury found the expert persuasive and convicted Hinton. *Hinton*, 571 U.S. at 269. Following his conviction, Hinton filed multiple appeals and post-conviction relief petitions which

all failed. *See* Possley, Maurice, "Anthony Hinton," The National Registry of Exonerations, Michigan Law (Aug. 1, 2017), available https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4669 (last accessed Aug. 9, 2024).

In 2002, after receiving help from the Equal Justice Initiative, the firearm and bullet casings were reexamined by three new experts, one forensic consultant and former FBI agent and two Dallas County Crime Firearm Examiners. *Id.* All three experts found that they could not conclude the bullets shot the night of the crime came from Hinton's revolver. *Id.* In 2014, the United States Supreme Court vacated Hinton's conviction and granted him a new trial. *Id.* During preparation for the new trial, the prosecution had new experts re-examine the bullets and gun and found that they also could not conclude that the bullets came from Hinton's gun. *Id.* Subsequently, after 30 years on death row, a judge dismissed the charges against Hinton. *Id.*; *see also Hinton*, 571 U.S. at 276.

As Pursley, Siggers, and Hinton's cases all demonstrate, convictions are overturned and new trials are routinely granted in cases where decades-old ballistics analysis is questioned in light of new scientific techniques and testimony. Mr. Wyldes deserves that opportunity to show his actual innocence.

As one state trial court judge recently opined, as science improves, the methods behind firearm identification are continuously questioned and at times found to be unreliable. *See State v. Winfield*, "Revised Order and Memorandum Ruling," Case No. 15 CR 14066 01 (Ill. Cir. Ct., Crim. Div.—Cook Cnty, Ill. Feb. 8, 2023), available https://drive.google.com/file/d/1LeClgcOzly1ATTcoeIDL_KHjSpIfcuRI/view. In *Winfield*, the court ruled on a post-hearing motion, electing to completely bar certain evidence of bullet and firearm identification, calling it "junk evidence" that fell below the standard articulated in *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923) and Ill. R. Evid. 403 *Id.* at 41. Judge William Hooks noted a few statistics that brought him pause, such as the "basement room of horrors" that contains the "High False Positive Hideout," referring to the notion that firearm identification can have a positive error rate as high as 40%. *Id.* at 24. Moreover, he gave strong credibility to a report where experts testified on the unreliability of firearm forensics. *Id.* at 23.

In making his final decision, Judge Hooks emphasized the growing number of wrongful convictions that relied on false firearm identification should "serve as a wake-up call" to courts who "blindly find[] general acceptance of firearm identifications evidence." *Id.* at 41.

Wrongful convictions due to improper firearm, bullet and casing identifications are not rare or isolated instances and continue to happen across the country. *See, e.g.*, *Williams v. Thaler*, 648 F.3d 597 (5th Cir. 2012); *Merritt v. Arizona*, 425 F.Supp.3d 1201 (D. Ariz. 2019); *Flowers v. Mississippi*, 139 S. Ct. 2228 (2019); *Ricks v. Pauch*, No. 17-12784, 2020 U.S. Dist. LEXIS 50109 (E.D. Mich. 2020). And, the use of new science to grant post-conviction relief is not limited to just new techniques in firearm, bullet, and casing analysis. *See*, *e.g.*, *Ex parte Chaney*, 563 S.W.3d 239, 275 (Tex. Crim. App. 2018) (granting new trial based on evolution in bitemark analysis); *Commonwealth v. Rosario*, 74 N.E.3d 599, 609 (Mass. 2017) (granting new trial in part due to advances in fire science); *Bunch v. State*, 964 N.E.2d 274, 304 (Ind. Ct. App. 2012) (granting new trial based on new fire victim toxicology analysis evidence). These cases represent just a few examples of courts embracing new science to do justice by vacating wrongful convictions.

If it were not for the skepticism of old methods and the court's willingness to accept new firearm forensics testimonies, re-evaluations, and methods, Pursley, Siggers, Hinton, Ricks, Winfield, and many others would still be serving sentences for crimes they did not commit. With science as controversial as decades old firearm identification, denying re-evaluation in light of new evidence questioning methods and the accuracy of previous firearm identifications jeopardizes justice for those who

will remain wrongfully imprisoned. Mr. Wyldes deserves the chance to have new science show his actual innocence.

CONCLUSION

This Court should reverse the decision of the district court and find that the interests of justice demand that Wyldes be afforded the opportunity to prove his actual innocence during an evidentiary hearing or new trial.

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS

1. This brief complies with the type-volume limitations of IOWA R. APP. P. 6.903(1)(i)(1) and 6.906(4) because it contains 5146 words, excluding the parts of the brief exempted by IOWA R. APP. P. 6.903(1)(i)(1).

2. This brief complies with the typeface requirement of IOWA R. APP. P. 6.903(1)(g)(1) and (2) and the type-style requirements of IOWA R. APP. P. 6.903(h) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2007 in Times New Roman 14-point font.

/s/ Jesse Linebaugh

PROOF OF SERVICE AND CERTIFICATE OF FILING

I hereby certify that on October 17, 2024, I served the counsel below via U.S. Mail. I further certify that I electronically filed the foregoing with the Clerk of the Supreme Court of Iowa using the Iowa Electronic Document Management System, which will send notification of such filing to the counsel below:

Elaina Steenson
Erica Nichols Cook
Assistant State Public Defender
Wrongful Conviction Division
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
enicholscook@spd.state.ia.us
esteenson@spd.state.ia.us

George B. Jones
P.O. Box 36, 638 Main Street
Lamoni, Iowa 50140
lamonilawyer@gmail.com

Maxwell Christopher Fabricant
Tania Claudine Brief
40 Worth Street, Suite 701
New York, New York 10013
cfabricant@innocenceproject.org
tbrief@innocenceproject.org

Megan Beth Richardson
311 N. Aberdeen Street, Third Floor
Chicago, Illinois 60607
megan@exonerationproject.org

ATTORNEYS FOR APPLICANT-APPELLANT

Brenna Bird
Louis S. Sloven
Iowa Attorney General's Office
Department of Justice
Hoover State Office Building, 2nd Floor
1305 E. Walnut St.
Des Moines, Iowa 50319
Louie.Sloven@ag.iowa.gov

ATTORNEYS FOR THE RESPONDENT-APPELLEE

/s/ Paulette Ohnemus