

unnecessarily ceding a major opportunity to discredit the State’s vulnerable arguments. The jury was thus not presented with (among many other things) evidence that at least one other man was a major participant in the crime, or that a pretrial death of an inmate attributed to Mr. Nelson was a suicide. Mr. Nelson’s counsel similarly failed to take basic steps necessary to follow up on abundant red flags for childhood trauma and mental illness in the materials available to them, including a post-traumatic stress disorder (“PTSD”) diagnosis with an unusually high PTSD score. Instead, defense counsel permitted *their own expert* to attribute Mr. Nelson’s behavior and demeanor to “psychopathy.” Exacerbating the expert’s harmful testimony that Mr. Nelson posed a future danger, counsel neglected the gatekeeping necessary to a fair trial, permitting Mr. Nelson to appear before the sentencing jury perceptibly shackled and surrounded by guards.

Throughout their representation of Mr. Nelson, defense counsel simply went through the motions, with no regard for the facts and circumstances of Mr. Nelson’s case. The accumulation of errors at Mr. Nelson’s trial all but sealed his fate at sentencing.

STATEMENT OF FACTS

A. Mr. Nelson’s Arrest and Trial

On March 3, 2011, Clinton Dobson, pastor of NorthPointe Baptist Church in Arlington, Texas, was killed during a burglary of the church. Judy Elliott, the church’s secretary, was severely beaten. The assailants stole a laptop, Mr. Dobson’s cell phone, credit cards, and Ms. Elliott’s car. The next day, on March 4, Morgan Cotter and Allison Cobb reported to police that a man matching Mr. Nelson’s description had approached them at the QuikTrip for a ride to Dallas. See Incident Report, Arlington, Texas Police Department, Ex. 26 at NELSON 306.¹ Cotter and Cobb reported that, after they refused to give him a ride, the man stated he had a

¹ Citation conventions in this Petition are as follows: Appendix (“Ex. X at NELSON [PAGE]”); Trial Court’s Clerk’s Record (“[VOLUME] C.R. [PAGE]”); Trial Court Transcript (“[VOLUME] R.R. [PAGE]”); and State Habeas Clerk’s Record (“S.H.C.R. [PAGE]”).

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black iPhone belonging to a deceased pastor and needed to get out of town quickly. *Id.* Surveillance footage proved this story false, and the police contacted Cotter and Cobb again. After further questioning, Cotter admitted the fabrication and told detectives she believed that two men—Mr. Nelson and Anthony “A.G.” Springs—were involved in the crime. Both Cotter and Cobb said they were with Mr. Nelson and Springs on the evening of March 3. Cotter told police that a news story about the church murder came on the television while she was with Mr. Nelson and Springs, prompting them to comment on the crime. Springs told the group he was trying to sell “an iPhone that belonged to the dead Pastor”—contrary to Cotter’s initial story that it was Mr. Nelson who had the phone. *Id.* at NELSON 306–08.

Arlington police arrested Springs and found that he was in possession of Ms. Elliott’s car keys and had been in possession of Mr. Dobson’s iPhone. Photos of Springs taken on March 7, 2011, showed extensive bruising on both his hands, as well as “a large bruise on [his] inner left arm at or near his lower biceps/elbow.” *Id.* at NELSON 315; see Photos of Springs’s Injuries (Mar. 7, 2011), Ex. 27 at NELSON 327. Detectives questioned Springs about his involvement in the murder, which he denied. Springs told police that Mr. Nelson had admitted the murder to him. On March 5, police arrested Mr. Nelson, who was in possession of items purchased with Ms. Elliott’s credit cards. Mr. Nelson told police he was a lookout during what he thought would be a burglary. He admitted to using the stolen credit cards, but maintained that he did not kill anyone, or anticipate that anyone would be hurt. Ex. 26 at NELSON 312–13. The Arlington Police Department filed sworn complaints alleging that both Mr. Nelson and Springs committed capital murder, but the State indicted only Mr. Nelson for intentionally causing Mr. Dobson’s death in the course of committing or attempting to commit robbery or burglary of a building.

1. Pre-Trial Investigation

On March 14, 2011, the trial court appointed William “Bill” Ray and Stephen Gordon to

Morgan is on probation for Robbery- 3 years probation. Judge Louis Sturns. Bruce Ashworth is counsel.

The two guys left to go "scope." They left with another guy who pulls up in a red Impala. AG has shotgun that he obtained from different apartment they traveled to. The girls went home.

Two days later (day of murder) Morgan and Allison were at Samuel's home around 9:00 p.m. (Allison has been living with Morgan as of late)

AG & Steven show up. Another girl was there who showed up in the red car as well

In Samuel's home on Park Row & Collins, Bellaire Apt #121. They are all on the couch. News about Pastor's murder comes on T.V., Morgan says, "That is terrible."

AG & Steven laugh! Allison said, "How come you laugh about that it could have been your Dad?" AG responds: "I don't give a damn, fuck" AG: "I'm trying to come up off this iPhone. The pastor that was killed today, I have his iPhone." Everyone got quiet. Sam said, "Don't talk about that in my house". AG said, "I am kidding. Jordan, the girl who was there, they get up and say they're going to get black and white, AG got up to leave as well. The two guys were on ecstasy

They spent the night at Samuel's, Morgan on the couch and Allison in bed with Samuel. At 4 a.m. someone was banging at the door. It was AG and he was alone. After Morgan lets him in, AG calls his mom and says, "I want to come home" She asks "Why?" He said "I have a lot on my mind". She says "Okay." He hangs up with her and waits for a ride. Morgan has fallen back asleep. He wakes her up to lock the door and he leaves. She sees text message from Steven. She texted: "Did you kill Pastor?" He replies: "No, I didn't rob him?"

Next day Samuel left to go to school to get books. While he was gone they called police. Morgan called her dad to get direct phone tip line to police and Morgan called

They told police about "Romeo", "Steven" and not about "AG"

Detective Lane Shimpagh

Rewards:	Oak Farms:	\$10,000.00
	Crime Stoppers:	\$250,000.00

3-4-11 4:17 pm

detective starts

Det Blank APD interview - Morgan Carter TX25736721

12-23-90, 2008 Van Buren Drive, ARL 76001 214 622 1674, cell

dads 817 308 2924-cell.

we spoke earlier... you said you were at quick trip, saw mixed race male, lots of tatoos. dollar signs on eyes.

then police approached and you told new story

knows anthony gregory springs, stephen nelson, we went to school together.

she has the same tatoo as anthony. musical tatoo. knows anthony well, knew where anthony lived.

anthony goes house to house. anthony's no 682 583 1443.

ana rhodes is anthony's mom. anthony and stephen, she says d goes by tank or romeo.

we were hanging out stephen wanted to have sex. 4:32:50,

dex. female in army wears dogtags

they had been talking about hitting a lick.

they have talked about robbing.

he was wearing green cookie monster outfit. jewelry. AG wearing white wife beater and jeans.

4:37:07 they came in, we watching it on news were rolling on extacy.

i didn't take on bc im pregnant

4:37:21 anthony showed her the-iphone. said he got it from-pastor.

they left.

4:38:27 stephen called about 230 am.

4:41:24 i asked stephen. did you kill the pastor, d said i didn't rob him.

i didn't know what he did, could have been innocent.

i lied, we need to go to police. they had a shotgun.

he, does not say who, had a silver and black gun.

4:47:11 other day d called, said he had to hit a lick by 7 bc they were going to leave.

4:48:09 i don't know why you trust me, i am a big snitch.

why killed them?

4:50:00 AG is money hungry. is greedy

if they were disrespected.

AG has not been like this.

4:54:10 pd leaves.

back at 4:59:00

he was trying to find a picture of dex.

ends 5:00:59

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Incident Report

11-12894

Supplement No
0012

ARLINGTON, TEXAS POLICE DEPARTMENT DRAFT

Narrative

At 10:00 hours, I arrived back at the Main Police Station. I immediately left again for the Northpoint Church so as to conduct a walk through with both Wiles and Bertrand to establish if any other items were missing from Dobson's office. At 10:25 hours, I met with Wiles and Bertrand at the church. We completed a walk through of the church with no immediate other items noticed missing. I had previously informed Bertrand of Dobson's missing laptop computer (which was owned by the church) and Bertrand provided me with a print out for the computer's purchase. Bertrand also informed me he had checked on the church credit cards and did not believe they had been used. He cancelled the cards after this search.

During this meeting with Wiles and Bertrand I was alerted of a 911 phone call our East Side Patrol was currently working (APD CS #110630410). Cpl. B. Watson #2082 and his recruit Officer J. Rangel #2691 were currently speaking with two white females who claimed to have spoken with someone who had property belonging to Dobson.

At 11:30 hours, I arrived at the call address of 808 Tharp St. #121 and met with Cpl. Watson. Cpl. Watson told me the two females, identified as Morgan Cotter W/F 12-23-90 and Allison Cobb W/F 05-15-91, said they were at the QuickTrip located at 901 E. Division St. last night (03-03-11) at around 21:30 hours buying drinks. The girls parked on the west side of the QuickTrip near the pay phone.

When they began walking toward the front doors of the business, they noticed a shorter, athletically built, light skinned black male with short hair, light colored eyes, who was heavily tattooed including \$ signs on each eyelid and three tear drops near his right eye. This male was wearing a green "Cookie Monster" shirt, blue jean shorts, and black shoes. The male was also wearing a large amount of jewelry including a thick diamond looking bracelet.

The male walked to them from the pay phone and asked for a ride to Dallas. When the two refused this request the first time, he offered them money for the ride. When they refused for a second time, he produced a black iPhone and told the girls the phone belonged to the dead Pastor and he needed to get out of town quickly. The girls didn't initially believe him but again declined his request for a ride. Upon this last denial, the male immediately began running west bound across Collins Street. The girls continued into the store.

I contacted the two females who again told me the same series of events as previously provided to Cpl. Watson. Cotter told me she delayed calling 911 last night because she didn't initially believe this male, but after thinking on it over night she felt she needed to tell someone about it. Cotter consulted with her father on the matter and he finally persuaded her to come forward with her information. Cobb corroborated Cotter's entire statement including the reason for the delayed report.

At the end of this interview, I drove over to the QuickTrip in order to view their closed circuit surveillance video. At 11:50 hours, I met with the on-duty manager identified as Elizabeth Wilson W/F 05-04-86. I reviewed this video on their system in an angle that captured the front door and the immediate parking lot near the pay phone. I observed Cotter and Cobb enter the store from what appeared the center of the parking lot and not from the area near the pay phone as they previously reported. They purchased some drinks and exited the business. At no time did I see anyone matching the description they provided near the pay phone. Based on this video, I believed Cotter and Cobb were not being completely honest with me. I downloaded the video onto a DVD and returned to the Main Police Station.

I relayed my beliefs to both Detectives Lopez and Shinpaugh. I requested both of them to go and re-interview Cotter and Cobb for me while I completed other tasks.

I began researching Judy Elliott's recent credit card transaction history which was obtained earlier by Detective Shinpaugh via Judy Elliott's son, Brad Elliott. I located several transactions which occurred on March 3, 2011 at a Telco gas station, several jewelry kiosks at the Park's Mall at Arlington, and Shialh (a shoe store inside the Park's Mall at Arlington). These transactions occurred prior to or close after the 911 phone call had been made by John Elliott. I requested Detective Wade #1989 follow up with these transactions.

At 14:55 hours, I contacted Suzanne Richards W/F 07-02-69, via the phone number provided for her. Richards confirmed to me she was scheduled to have an appointment with Dobson at 13:00. When she arrived at 13:02, Richards noticed Elliott's car was not in the parking lot, but Dobson's was still there. Richards went to the front

Incident Report

ARLINGTON, TEXAS POLICE DEPARTMENT

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Narrative

door and noticed it locked. Richards rang the doorbell, but received no answer. Richards could see into Elliott's office and noticed it was dark.

Richards went around to the back of the church and found the set of double doors were also locked. Richards looked into the windows of Dobson's office, but could not see anything other than the couch due to the tint on the windows. Richards knocked on the windows, but still did not receive a response. Richards waited at the church until 11:30 hours before leaving. Richards said she had heard through other church members that another individual, identified as Debra Jenkins, was at the church just prior to her arrival. Richards provided me with a phone number to another church member, Lea Cowart, who had Jenkins' cell phone number. This conversation was audio recorded.

I contacted Lea Cowart W/F 08-16-74, who said she had also spoken with Debra Jenkins about Jenkins' observations. Cowart provided me with another church member who had Jenkins' phone number as she did not have it herself. Cowart said she would try to locate it with other church members and provide it to me when located. This conversation was audio recorded.

Before I was able to contact Jenkins, I received a phone call from Detective Lopez in reference to the second interview with both Cotter and Cobb. Detective Lopez told me they admitted to withholding information to me earlier. They provided Detective Lopez with the names of the two suspects: Anthony Gregory Springs and Steven Nelson. Detective Lopez said both Cotter and Cobb agreed to meet with me at the Main Police Station in order to view photos of the two suspects as well as to provide a more accurate statement.

I began researching the two names provided to me in our computerized RMS database and located the most recent jail booking photo of Springs. As Nelson did not have a jail booking photo with our agency, I researched him in an online database, TDEX, and located a recent Dallas County Jail booking photo. I requested a copy of this photo through the Dallas Police Department's Fusion Unit. The photo was provided to me via e-mail. I printed out copies of both photos to be shown to Cotter and Cobb.

Detectives Lopez and Shinspaugh escorted Cotter and Cobb to the third floor of the Main Police Station where I met with them again. Both apologized to me for our last conversation and agreed to not leave anything out this time. At 16:13 hours, Detective Lopez and I escorted Cotter to the third floor interview room. I explained to Cotter our need to clarify her statement and she agreed to do so. This interview as well as Cobb's interview was recorded by both audio and visual means. Both interviews were later downloaded onto a DVD and booked in as evidence (item CLB-07).

Cotter told me she believes two of her friends, identified by Cotter as Anthony Gregory Springs aka "AG" H/M 18 yoa and Steven Nelson aka "Tank" or "Romeo" B/M 24 yoa, are responsible for the death of the Pastor (i.e. Dobson). Cotter knows both of these individuals from when they used to go to school together. Cotter provided me with accurate descriptions for the two males. Cotter viewed photos of both and positively identified them. Cotter added she knows Nelson and Springs to commit aggravated robberies together and said they were recently trying to rob people within the past couple of days in Irving.

Cotter explained she and Cobb were at a mutual friend's apartment, identified as Samuel McIntosh aka "Sun Dun", hanging out the night of the murder. Cotter received a phone call from the two asking her what she was doing. Cotter told them she was hanging out at "Sun Dun's" apartment and the two said they would come over. Springs and Nelson pulled up to the apartment with another female known to her as "Dex". The two immediately walked into the apartment and they all started talking/hanging out. Cotter said Nelson was wearing the jewelry and a green "Cookie Monster" shirt as previously described while Springs was wearing a white tank top and shorts. Cotter also remembered she saw Nelson with what looked like a brushed nickel and black colored handgun tucked into his waistband.

Later that evening, while watching television, a news story about the incident played before the group. Both Nelson and Springs began laughing and making inappropriate comments about Dobson's death. When confronted about this behavior by Cotter, both told her that they didn't care because they weren't related to the Pastor. Cotter told them they were acting disrespectful, but they didn't seem to care. Cotter then asked Springs what he would be doing later and was told by Springs he was trying to sell an iPhone. Cotter thought this was odd as she had never seen him with an iPhone before. Cotter asked him where he got the phone and was told by