



OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

Executive Summary

Background

In 2000, Adnan Syed was convicted of the murder of Hae Min Lee. That conviction withstood years of post-conviction and appellate litigation. In September 2022, the previous State's Attorney, Marilyn Mosby, moved to vacate Mr. Syed's conviction. In the Motion to Vacate Judgment (MVJ), Ms. Mosby asserted that the State had "uncovered *Brady* violations and new information, all concerning the possible involvement of two alternate suspects" and "identified significant reliability issues regarding the most critical pieces of evidence at trial." The motion made clear that Ms. Mosby was "not then asserting that Mr. Syed was innocent, but rather that it no longer had confidence in the integrity of the convictions and that Mr. Syed, at a minimum, should be afforded a new trial." *Syed v. Lee*, 488 Md. 537, 568 (2024). Mr. Syed joined Ms. Mosby's request for relief.

Ms. Mosby's office gave the crime victim's representative, Young Lee (Ms. Lee's brother), less than one business day's notice of an in-person hearing on the motion to vacate. The Court denied Mr. Lee's request for a postponement of the hearing to allow him to travel from California to Maryland to attend in person. Mr. Lee observed the hearing remotely and was permitted to make a statement before the presentations by the State and the defense counsel. After hearing the parties' arguments, he was denied the

opportunity to address the Court. The Court granted the motion, vacated Mr. Syed's conviction, and ordered the State to either schedule a new trial or enter a nolle prosequi ("nol pro") within 30 days. *Id.* at 553. Mr. Lee noted an appeal.

While the appeal was pending, Ivan J. Bates was elected State's Attorney for Baltimore City and took office on January 3, 2023. In October 2024, the Supreme Court of Maryland reinstated Mr. Syed's conviction finding:

In an effort to remedy what they perceived to be an injustice to Mr. Syed, the prosecutor and the circuit court worked an injustice against Mr. Lee by failing to treat him with dignity, respect, and sensitivity and, in particular, by violating Mr. Lee's rights as a crime victim's representative to reasonable notice of the Vacatur Hearing, the right to attend the hearing in person, and the right to be heard on the merits of the Vacatur Motion.

Syed, 488 Md. at 629–30.

With this conclusion, the case was returned to this office.

This Administration's Review of the Merits of the Motion to Vacate Judgment

To determine how to proceed on the MVJ and whether this office could continue to sponsor the motion filed by Ms. Mosby, the office undertook an extensive review of the facts, circumstances, and law underlying the motion. The question for review was extremely narrow and focused: Was there "new information" that provided a sufficient factual or legal basis to support the allegations contained in the MVJ? The review was limited to the MVJ, and this office does not make any judgment regarding Mr. Syed's innocence or guilt.

The review proceeded on related tracks. First, this office reviewed all available documents and evidence associated with the original investigation of Mr. Syed leading up to his trial in 2000. Second, this office reviewed all available documents and evidence

associated with the post-conviction litigation between 2000 and 2019. Third, this office attempted to understand the investigation conducted by Ms. Mosby's office beginning in 2021, resulting in the motion filing. Ms. Mosby assigned a team of attorneys to review the case, which will be referred to as the Syed Review Team ("SRT").¹ Unfortunately, the "SRT" failed to preserve many of the records related to the investigation. Ms. Mosby also refused to speak with the office regarding the investigation, and one "SRT" member provided limited information through counsel.² In an effort to reconstruct the investigation conducted by the "SRT," this office sought to recover electronic data and reviewed all available (or recovered) notes, emails, memorandum, and drafts. This office interviewed Mr. Syed's defense counsel, the prosecutors who tried the case in 2000, prosecutors within the Office of the State's Attorney who were consulted on the issues contained within the MVJ, and members of the Baltimore Police Department (BPD) assigned to re-investigate the case. This office also met with the victim's representative and his attorneys.

Upon conclusion of this office's review, it has been determined that, as officers of the Court and prosecutors tasked with pursuing justice, this office cannot endorse Ms. Mosby's representations in the MVJ because they are not supported by fact or law. Therefore, this office is constrained to withdraw the motion.

Analysis of the Evidence and the Law Regarding Alleged *Brady* Violations

¹ None of the authors of the original motion or executive staff that were consulted on the motion remained at the Office of the State's Attorney after State's Attorney Ivan J. Bates took office.

² In December 2024, Marilyn Mosby, through counsel, declined to be interviewed by this Office regarding the Syed case. One "SRT" member, through counsel Peter T. Kandel, declined to be interviewed but agreed to, and did, provide a report of research and investigation on January 30, 2025.

The MVJ was predicated on the assertion that the State suppressed or withheld material evidence that would have been favorable to Mr. Syed at trial in violation of *Brady v. Maryland*, 3 U.S. 83 (1963). To prove a *Brady* violation, you have to prove (1) that there was information that the prosecutors had when they prosecuted Mr. Syed that should have been given to the defense and was not and (2) that this new information was significant enough that it could have affected the jury's guilty finding of Mr. Syed. The following summary highlights some of the factual and legal deficiencies in the MVJ.

The MVJ points to two handwritten notes that were allegedly withheld from the defense team in 1999-2000 and alleges that the notes support a conclusion that there were two alternative suspects who could have committed the murder. This office's review leads to the conclusion that (1) the notes do not point to any alternative suspects; (2) the individuals that the "SRT" believed to be the alternative suspects were known to the defense; and (3) the notes were likely disclosed to the defense before trial.

First, the notes do not point to any alternative suspects. Kevin Urick, one of the original prosecutors assigned to the case, authored the notes. Shockingly, the "SRT" did not ask Mr. Urick about his own handwritten notes. They did not ask him to decipher his somewhat illegible handwriting or to interpret his notes otherwise. They did not ask him if he had any independent recollections regarding the notes. Most shockingly, they did not ask him if he withheld the notes from the defense or about his discovery practices in 1999-2000. When interviewed by this office, Mr. Urick provided substantial information about the notes that differs materially from what is represented in the MVJ.

For example, one of the notes states, "He told her that he would make her disappear; he would kill her[.]" Mr. Urick recalls (and previously relayed to the Office of

the Attorney General for Maryland) that the note in question said that Mr. Syed, not an alternate suspect, threatened to kill Ms. Lee. Without interviewing Mr. Urick, Ms. Mosby represented to the Court that the correct interpretation of the note was that a different individual, i.e., one of the alternate suspects, threatened to kill Ms. Lee. On July 7, 2022, the “SRT” interviewed Sa.A., who they believed provided the information to Mr. Urick, which was memorialized in the note. Sa.A. told the “SRT” that they did not recall the referenced other suspect making any threats against Ms. Lee. In an internal memo on the same date, an “SRT” member stated, “I am not currently of the impression that Bilal [Ahmed] made any threats in front of [Sa.A.] regarding [Ms. Lee].” The July 7, 2022 memo is entirely inconsistent with the statement in the MVJ that an alternative suspect had threatened to kill Ms. Lee.

Second, the alleged alternative suspects were known to the defense counsel before trial in 2000. The defense attorney, Christina Gutierrez, previously represented one of these purported alternative suspects, Mr. Bilal Ahmed, in connection with this case and had received information from Mr. Syed himself that would have allowed her to pursue the same proposed defense theory that the “SRT” later advanced. Before the trial, the defense team thoroughly investigated the second alleged alternative suspect, Mr. Alonzo Sellers. During the trial, Ms. Gutierrez pursued a defense theory that Mr. Sellers was an alternative suspect who could have committed the murder.

Finally, in addition to speaking with Mr. Urick, this office spoke with former Assistant State’s Attorney Kathleen C. Murphy, who was also assigned to the original trial team. Based on these interviews and a review of the file, this office determined that both notes were probably turned over to the defense through routine disclosures and/or

made available through one or a series of open file reviews that took place in 1999-2000, during which the defense attorney, Ms. Gutierrez, looked through the State's entire trial file. This office has no reason to believe the State withheld or suppressed these notes from the defense and cannot endorse the statements in the MVJ to the contrary.

In alleging that prosecutors withheld the notes in 1999-2000, it appears that the "SRT" relied entirely on the statement from Mr. Syed's current defense counsel that the notes are not currently in the defense file. The chain of custody of Ms. Gutierrez's trial file is concerning and the absence of documents in the file today is not dispositive of what may have been in the file in 2000. Since 2000, the defense file has changed hands numerous times. From the review, this office knows that the file has been in the possession of the Attorney Grievance Commission, Syed family friend Rabia Chaudry³, blogger Susan Simpson⁴, and Mr. Syed's post-conviction and appellate attorneys, including Justin Brown and Erica Suter. Twenty-five years after the trial, it is impossible to rely on any representations of the status of the trial file from 2000. This office can only presume that the notes could have been in the file at one point and then lost or misplaced by any one of the people in possession of the file, or maybe Ms. Gutierrez never thought the notes were essential and never placed them in the file in the first instance; this office will never know. In the MVJ, Ms. Mosby herself hedges, stating that she acknowledges that prosecutors may have provided these documents to the defense and that the failure to use this information in trial may merely be the basis of a

³ Rabia Chaudry is an attorney but she has never represented Mr. Syed. It is unclear how she came into possession of the file after the Attorney Grievance Commission's proceedings against Ms. Gutierrez.

⁴ Susan Simpson is an attorney who appeared in the 2019 HBO documentary, *The Case Against Adnan Syed*. She has never represented Mr. Syed but, during an interview, she discussed receiving the trial file from Ms. Chaudry.

post-conviction claim of ineffective assistance of counsel against Ms. Gutierrez. This concession is indicative of the speculative nature of the allegations of a *Brady* violation.

Analysis of the Evidence and the Law Regarding the Cell Phone Evidence

In support of the argument that the State violated *Brady* by withholding the handwritten notes, Ms. Mosby, in the MVJ, wanders far afield and concludes that she lacks confidence in other trial evidence. The MVJ attacks the cell phone evidence admitted at trial by adopting the post-conviction court's opinion (reversed on appeal) that Ms. Gutierrez provided ineffective assistance of counsel when she failed to cross-examine the State's cell phone expert on a disclaimer found in the phone records. A review of the trial transcripts and post-conviction proceedings regarding the cell phone evidence demonstrates that the State's cell phone expert was never asked a single question on direct examination – and did not rely in any way – on the cell phone records at issue. The expert testified that he conducted independent testing at 13 separate locations to determine which cell towers were in the range of these locations and only relied upon his notes. The evidence was significant because it corroborated Jay Wilds' account at trial of what occurred on the night of Ms. Lee's murder and showed that the cell phone that Jay Wilds testified belonged to Mr. Syed but was in his possession while they were together to bury the body was, in fact, somewhere in the vicinity of Leakin Park, where Ms. Lee's body was discovered.

Analysis of the Evidence and the Law Regarding DNA

It appears that the DNA is what Ms. Mosby relied upon to exonerate Mr. Syed. This justification is problematic for three main reasons. First, the DNA was found on a pair of shoes in Ms. Lee's car, and the shoes were never proven to be Ms. Lee's. We have found no corroborating evidence supporting that fact other than that police recovered them in the backseat of her car. Second, there were four DNA samples on these shoes; however, Mr. Syed's DNA was not on the shoes, and, in fact, Ms. Lee's DNA did not even appear on the shoes, again creating questions about whose shoes they were, and whether those were the shoes that Ms. Lee wore that day. Finally, it appears that the DNA discovered was on the bottom of the shoes, which is unsurprising, given that anyone's DNA could be transferred from the ground to a person's shoes. It is critical to note that during this office's extensive review, an email was located from an "SRT" member to Ms. Mosby, sent the day before she dropped the charges against Mr. Syed, stating that the DNA evidence recovered on the shoes was "not conclusive of innocence." This office agrees that DNA from the bottom of a pair of shoes recovered in the backseat of the victim's car is not dispositive or even relevant to the case. To date, there is no information whatsoever to say that these shoes played any role in Ms. Lee's murder. Unlike Ms. Mosby, we cannot vacate this conviction based on the lack of Mr. Syed's DNA on the bottom of a pair of shoes found in the backseat of Ms. Lee's car.

Conclusion

As licensed attorneys and officers of the Court, this office cannot adopt the false and misleading statements and unsubstantiated conclusions in the MVJ that the State

violated its *Brady* obligations in *State v. Syed*. Indeed, as the moving party, this office is compelled to bring the false and misleading statements to the Court's attention.

As prosecutors, we are sworn to seek justice and uphold the law, this office approached this case as it does every case, asking the question, "How do we get to justice?" Based on an exhaustive review, the only answer to that question is to withdraw the MVJ and provide an explanation for the decision to the Lee family, Mr. Syed and his family, and the public, who may have an interest.

Mr. Syed's case has been the subject of protracted post-trial litigation, all of which has ultimately resulted in the affirmance of the jury's verdict beyond a reasonable doubt that he is guilty of the murder of Hae Min Lee. While this office withdraws the Motion to Vacate Judgment, that decision does not preclude Mr. Syed from raising any new issues that he believes will support his innocence in the proper post-trial pleadings. However, properly shifting this burden back to Mr. Syed will re-instill the adversarial nature of proceedings that are the hallmark of the truth-seeking function of our criminal justice system. The Office of the State's Attorney for Baltimore City is hopeful that this decision will give Young Lee and the entire Lee family some closure on this protracted process that has caused more grief to the family and will help to restore a sense that justice will prevail in the murder of his sister, Hae Min Lee.

As a final note, Ms. Mosby represented to the Court that this was an open and ongoing investigation. This office's review of this matter has not revealed that there was ever an open investigation into any purported alternative suspects in the murder of Hae Min Lee. BPD similarly reported that it did not have an active investigation, and this office will not ask for one to be opened.