IN THE CIRCUIT COURT OF CARTER COUNTY STATE OF MISSOURI

STATE OF MISSOURI,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 05C2-CR00080-01
	)	
LANCE C. SHOCKLEY,	)	
	)	
Defendant.	)	

FIDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

On May 20, 2025, Defendant Lance C. Shockley filed a Motion for Postconviction DNA Testing Under § 547.035, RSMo 2016. On June 6, 2025, this Court issued its Show Cause Order directing the State to show cause why this Court should not hold an evidentiary hearing on Shockley's motion. On June 9, 2025, the State filed a response to the show cause order. On June 13, 2025, Shockley filed an amended motion, correcting the lack of verification in his original motion, and a reply. On June 16, 2025, this Court heard arguments from the parties. Now, after careful consideration of the parties' filings and the files and records of the case, this Court finds that Shockley is not entitled to relief. Therefore, this Court denies Shockley's motion for post-conviction DNA testing without an evidentiary hearing.

Findings of Fact

Procedural History

1. On March 18, 2009, Shockley's jury trial began. Tr.[1] at v.

2. On March 27, 2009, the jury unanimously found Shockley guilty of first-degree murder. State's Mot. Ex. N at 115 (DA L.F. at 1704).

[1] The Court will refer to the transcript from Shockley's underlying criminal trial, attached as State's Motion Exhibits A–E, as "Tr."

3. On March 28, 2009, the jury unanimously found the following aggravating circumstances: (1) "[C.D.G.] was a peace office murdered because of the exercise of his official duty"; (2) "[C.D.G.] was murdered for the purpose of preventing a lawful arrest of [Shockley]"; and (3) "[C.D.G.] was a potential witness in the pending investigation of [Shockley] for leaving the scene of a motor vehicle accident on or about November 26, 2004 and was killed as a result of his status as a potential witness." State's Mot. Ex. N at 134 (DA L.F. at 1723). The jury did not find that there were facts and circumstances in mitigation of punishment sufficient to outweigh the circumstances in aggravation, but it ultimately deadlocked on appropriate punishment. *Id.*

4. On May 22, 2009, this Court sentenced Shockley to death for the murder of C.D.G. *Id.* at 176–77 (DA L.F. at 1765–66).

5. Shockley then received full and fair appellate and post-conviction review.

6. On June 1, 2009, Shockley filed a notice of appeal. *Id.* at 181–82 (DA L.F. at 1770–71). On August 13, 2013, the Supreme Court of Missouri denied Shockley's appeal and affirmed his conviction for first-degree murder. State's Mot. Ex. R at 5; *State v. Shockley*, 410 S.W.3d 179, 182 (Mo. 2013).

7. Shockley then sought certiorari review from the Supreme Court of the United States, which was denied on February 24, 2014. *Shockley v. Missouri*, 13-7342 (2014).

8. On January 23, 2014, Shockley filed his pro se post-conviction motion under Rule 29.15. State's Mot. Ex. T at 35–40 (PCR L.F. at 26–32).

9. On April 30, 2014, Shockley filed his amended post-conviction motion. *Id.* at 14 (PCR L.F. at 5).

10. A hearing was held on Shockley's motion from October 11 through October 14, 2016, and on January 27, 2017. State's Mot. Ex. S at 2–5.

11. On July 9, 2017, this Court, denied Shockley's amended post-conviction motion. State's Mot. Ex. T at 34 (PCR L.F. at 25); *see also* State's Mot. Ex. DD at 10–84 (PCR L.F. at 1381–456).

12. On August 14, 2017, Shockley filed a notice of appeal. State's Mot. Ex. DD at 91 (PCR L.F. at 1462).

13. On April 16, 2019, the Supreme Court of Missouri affirmed the motion court's denial of Shockley's post-conviction motion. State's Mot. Ex. GG at 11; *Shockley v. State*, 579 S.W.3d 881, 890 (Mo. 2019).

14. On September 26, 2017, Shockley filed a Rule 91 habeas action, in which he challenged the circuit court's authority to sentence him to death after the jury deadlocked on the issue of punishment. Pet., *State ex rel. Shockley v. Griffith*, SC96694 (Mo. Sep. 26, 2017). On November 21, 2017, the Supreme Court of Missouri denied the petition. Mandate, *State ex rel. Shockley v. Griffith*, SC96694 (Mo. Nov. 21, 2017). Shockley then sought certiorari review from the Supreme Court of the United States, which was denied on October 1, 2018. *Shockley v. Griffith*, 17-8599 (2018).

15. On September 2, 2020, Shockley filed a petition for a writ of habeas corpus in the United States District Court for the Eastern District of Missouri under 28 U.S.C. § 2254. *See Shockley v. Crews*, 696 F.Supp.3d 589, 617 (E.D. Mo. 2023).

16. On July 12, 2021, Shockley filed an amended petition for a writ of habeas corpus. On September 29, 2023, the federal district court denied Shockley's petition and denied Shockley a certificate of appealability. *Id.* at 707. The court denied Shockley's motion to alter or amend the judgment, and, on January 3, 2024, Shockley filed a notice of appeal. *Id.*

17. After receiving two extensions of time, Shockley filed an application for a certificate of appealability in the United States Court of Appeals for the Eighth Circuit.

18. On March 15, 2024, Shockley filed an amended application for a certificate of appealability.

19. On April 2, 2024, the United States Court of Appeals for the Eighth Circuit denied the request for a certificate of appealability and dismissed the case. *Shockley v. Crews*, 24-1024, 2024 WL 3262022 (8th Cir. Apr. 2, 2024).

20. On April 30, 2024, Shockley filed a motion for rehearing either by the panel or by the court en banc. On June 7, 2024, the United States Court of Appeals for the Eighth Circuit denied the motion for rehearing.

21. Shockley then sought certiorari review from the Supreme Court of the United States, which was denied on March 31, 2025. *Shockley v. Vandergriff*, 24-517 (2025). On April 28, 2025, the Supreme Court denied Shockley's motion for rehearing. *See id.*

22. On March 31, 2025, the State filed a motion in the Supreme Court of Missouri requesting the court to set an execution date related to Shockley's conviction for first-degree murder. Resp. Mot. to Set Execution Date, *State v. Shockley*, SC90286 (Mo. Mar. 31, 2025).

23. After receiving one extension, Shockley filed suggestions in opposition to the State's motion on May 15, 2025. Sugg. in Opp., *State v. Shockley*, SC90286 (Mo. May 15, 2025).

24. On May 16, 2025, the State filed a reply in support of its motion to set an execution date. Resp. Reply Sugg. in Supp. of Mot. to Set Execution Date, *State v. Shockley*, SC90286 (Mo. May 16, 2025).

25. Shockley then requested, and received, eleven days to file a sur-reply. On May 30, 2025, Shockley filed his sur-reply. Sur-Reply Sugg. in Opp., *State v. Shockley*, SC90286 (Mo. May 30, 2025).

26. On May 20, 2025, and after the State had filed its reply regarding the motion to set an execution date, Shockley filed the instant motion for DNA testing.

27. On June 18, 2025, the Missouri Supreme Court issued an order and execution warrant scheduling Shockley's sentence to be executed in the twenty-four hour period beginning at 6:00 PM on October 14, 2025.

Trial Evidence

28. Shockley and his wife C.S. spent Thanksgiving of 2004 hosting C.S.'s sister, C.C., and C.C.'s fiancé, J.B., at their home in Eastwood. Tr. 1087–89.

29. The day after Thanksgiving, the two women visited another sister in Poplar Bluff while Shockley and J.B. stayed behind. *Id.* at 1089.

30. The women arrived back at Shockley's home shortly after 7:30 in the evening and found that the two men had left, taking Shockley's white pickup truck. *Id.* at 1089, 1093.

31. J.B. called the house at about 7:45 p.m. and sounded drunk. *Id.* at 1090. Either he or Shockley said that they were hungry and on the way back home. *Id.*

32. I.N. and P.N. were watching television at their home in Eastwood at about 8:00 p.m. when I.N. heard a car drive by at a faster than usual speed. *Id.* at 1038–40.

33. She heard a knock on the door about fifteen minutes later and saw that Shockley was at the door. *Id.* at 1040–41.

34. He was invited inside and I.N. noticed that he had blood on his hands. *Id.* at 1042–43, 1061.

35. Shockley said that he had been in an accident and needed help. *Id.* at 1043, 1061.

36. P.N. accompanied Shockley to the scene of the accident to see if anything could be done for J.B. *Id.* at 1043, 1061.

37. When they arrived at the scene, P.N. realized that J.B. was beyond help. *Id.* at 1061–62.

38. P.N. and Shockley returned to P.N.'s house, and Shockley called home and spoke with C.S. *Id.* at 1044, 1091–92.

39. P.N. then drove Shockley home. *Id.* at 1062. At some point when they were together, Shockley told P.N. that he knew it was wrong and that he would do the right thing. *Id.* at 1068.

40. About a mile from the house they met C.S. and C.C., who were driving towards the crash scene. *Id.* at 1063, 1092–94.

41. Shockley got into their car and they drove back to his house. *Id.* at 1064, 1095.

42. On the way back, Shockley told C.C. that J.B. was dead. *Id.* at 1096. Shockley went into the house and made a phone call while C.C. and C.S. drove to the crash site. *Id.* at 1098–99.

43. I.N., who was a certified nurse's aide, called for medical assistance for J.B. *Id.* at 1045–46. She then drove to the crash site and saw the white truck off the road, with J.B. inside. *Id.* at 1046. She checked J.B. for a pulse, but could not find one. *Id.* at 1047.

44. P.N. returned to the scene, followed by C.S. and C.C., and they were all present when a local police officer arrived. *Id.* at 1047, 1064, 1100–01.

45. Missouri State Highway Patrol C.D.G. also arrived at the scene and began investigating. *Id.* at 1071, 1101. After checking on J.B., C.D.G. told C.S. and C.C. that there was nothing more to do and that they should go home. *Id.* at 1101–02. They did. *Id.* at 1102.

46. The investigation continued, with another officer finding beer cans and a tequila bottle inside the truck, and a spot of blood on the outside of the truck on the passenger side where J.B. was sitting. *Id.* at 1074.

47. C.D.G. collected a sample of the blood and sent it to the Highway Patrol laboratory. *Id*. at 1075–76. It was tested for DNA in 2006 and found to be consistent with Shockley's DNA. *Id.* at 1076–77.

48. C.D.G. went to Shockley's house that night and spoke to C.S. at the doorway. *Id.* at 1104.

49. She got Shockley out of the bedroom and he talked to C.D.G. on the porch. *Id.* at 1105.

50. C.D.G. then came inside and told C.C. to let him know if there was anything he could do for her. *Id.* at 1106. He also gave her his card, which C.C. laid on a table and found shredded to pieces the next morning. *Id.* at 1106–07.

51. At some point during the evening, Shockley told C.S. and C.C.'s stepfather that he had been driving the truck and that he was responsible for J.B.'s death. *Id.* at 1155.

52. Shockley took C.C. to the crash site the next day and pointed out the spot where he lost control of the truck. *Id.* at 1109.

53. He apologized to C.C. and said that he would be there for her. *Id.* Despite their knowledge of Shockley's role in the crash, neither C.C. nor any other family members said anything to law enforcement. *Id.* at 1110. They were not the only ones to keep Shockley's involvement from the authorities. C.D.G. questioned I.N. on the night of the crash. *Id.* at 1047. She lied to protect Shockley and told C.D.G. that she did not know who had been involved in the wreck. *Id.* at 1048.

54. I.N. did not hear anything more from C.D.G. until March 19, 2005. *Id.* C.D.G. came to the nursing home where I.N. worked and told her that Shockley had admitted to being involved in the accident. *Id.* at 1049.

55. I.N. told C.D.G. that Shockley had been to her house the night of the accident, but did not go into any further detail. *Id.* at 1050.

56. I.N. called Shockley after she got home from work that day and told him about her conversation with C.D.G. *Id.* at 1050–51. Shockley said that he had never told the Highway Patrol that he was involved in the accident. *Id.* at 1051.

57. C.C. was at Shockley's house when I.N. called. *Id.* at 1116. She went to a restaurant and bar where she learned from her mother that C.D.G. had been looking for her. *Id.* at 1117.

58. C.D.G. indicated to C.C.'s mother that he believed that Shockley was driving the truck when it crashed. *Id.* at 1114. C.C.'s mother relayed that to C.C., who in turn told C.S. *Id.* at 1114–16. C.S. told C.C. that she was scared. *Id.* at 1118.

59. Shockley met with C.C. at 8:30 or 9:00 the next morning and told her that she did not have to talk to C.D.G. *Id.* at 1119. Shockley then went to the home of C.C.'s parents and asked her stepfather where C.D.G. lived. *Id.* at 1159–60. The stepfather knew that information from being friends with C.D.G.'s landlord, and he told Shockley the location of the house. *Id.* at 1160.

60. Shockley called his uncle, R.S., that morning and asked to borrow his truck, but he was refused. *Id.* at 1389–90.

61. Shockley went to his grandmother's house, located a few hundred feet from his own, at about 12:30 p.m. and borrowed her red 1995 Pontiac Grand Am that had a yellow sticker on the left hand side of the trunk. *Id.* at 1801, 1803–08.

62. The car was seen parked between 1:45 and 4:15 that afternoon on the wrong side of a lightly traveled gravel road near where C.D.G. lived. *Id.* at 1855–74, 1887–97, 1904–06, 1913.

63. Shockley returned the car to his grandmother at about 4:30 p.m. *Id.* at 1824–25.

64. Investigators traveled different routes from the location where the car was seen to Shockley's home. *Id.* at 1082–84. The most direct route took eighteen minutes and forty-two seconds when driven at the speed limit. *Id.* at 1082.

65. C.D.G. was on duty that day, Sunday, March 20th. *Id.* at 1165–66. He backed his patrol car into the driveway of his home, located on a private road in a densely-wooded rural area, and radioed the dispatcher at 4:03 p.m. that he was ending his shift. *Id.* at 1168–69, 1192, 1226, 1297–98.

66. At about the same time, employees of Ozark Applicators were loading a trailer at their business, which was owned by C.D.G.'s landlord and was near the house that C.D.G. rented. *Id.* at 1173–76, 1186–87. They heard a rifle shot coming from the direction of the house. *Id.* at 1175–76. A few minutes later, they heard two shotgun blasts coming from the same area. *Id.* at 1178, 1190. The timing of the shots suggested that they might have been fired in sequence from a pump shotgun. *Id.* at 1179, 1190.

67. A woman named J.H. was driving by C.D.G.'s house at about 5:10 or 5:15 p.m. when she saw C.D.G. lying in the driveway next to the left rear door of his car, which was open. *Id.* at 1199, 1208–11.

68. Papers and other items were lying on the ground next to the body. *Id.* at 1209, 1233–34. J.H. drove up and saw that C.D.G. was dead. *Id.* at 1210. C.D.G. was shot in the back with a bullet from a high powered rifle that penetrated his Kevlar vest. *Id.* at 1260–62. The bullet traveled in an upwards path and lodged near the chin and neck area. *Id.* at 1263–64.

69. The land next to the driveway sloped downwards into the woods, with a wall made of railroad ties at the bottom of the hill. *Id.* at 1304–07. C.D.G.'s back was facing that area and investigators concluded that the initial rifle shot was fired from the retaining wall. *Id.* at 1322–25, 1329. A splinter of wood was found to have been knocked off the top of the wall and appeared to have been dislodged recently. *Id.* at 1327–28.

70. The bullet severed C.D.G.'s spinal cord in the neck, causing him to immediately become completely paralyzed. *Id.* at 1264, 1267. He fell backwards, with the force of the fall fracturing his skull and his ribs. *Id.* at 1264–65, 1267. C.D.G., who was still alive, was then shot in the left side of the face and shoulder with a shotgun, with some of the pellets entering his lung. *Id.* at 1258, 1266–68. Pieces of paper wadding from shotgun shells were found near the body. *Id.* at 1309–10, 1318–19, 1382.

71. Paperwork concerning C.D.G.'s investigation into the crash that killed J.B. was found in the patrol car. *Id.* at 1312–16, 1368–71. A supplemental report found on C.D.G.'s computer stated that he had learned in January of Shockley going to I.N.'s house with blood on his hands and asking for help. *Id.* at 1132, 1135, 1137. The report also detailed C.D.G.'s interviews with I.N. and P.N. on March 19th, and his attempts to contact C.C. that same day. *Id.* at 1138–40.

72. The rifle bullet recovered from C.D.G.'s body was deformed, but was determined to be a small caliber bullet that would fit a .243 caliber rifle. *Id.* at 1261–62, 1270.

73. Sometime around 7:00 P.M. on the night of the murder, C.S. went to R.S.'s house and gave him a box of .243 shells. *Id.* at 1395–96. R.S. told C.S. that he did not want them because he did not have a .243 rifle.[2] *Id.* at 1396. C.S. responded, "Lance said you'd know what to do with them." *Id.* at 1397. R.S. put the shells in a drawer. *Id.* R.S. eventually handed over the box of shells to police officers who came to his house to question him. *Id.* at 1398, 1418–19.
C.S.'s fingerprint was found on the box. *Id.* at 1446, 1450.

74. Shockley had owned at least one .243 rifle[3] and had fired it on R.S.'s property, including one time in January of 2005 when he brought it over and shot a stray dog that he could not get rid of. *Id.* at 1403–05, 1407, 1579.

75. Officers searched R.S.'s property and recovered a .243 shell casing. *Id.* at 1406, 1427. They also searched Shockley's property and recovered several bullet fragments and spent .243 Winchester shell casings. *Id.* at 1458, 1467–71, 1534. A search of a wood-burning furnace outside of the house yielded two brass heads from shotgun shells and some metal clips, grommets, and buttons from bib overalls.[4] *Id.* at 1471–73, 1521–22, 1531–33.

76. Officers also seized numerous rifles, shotguns, pistols, and ammunition located throughout the house, including three shotguns, two of which were pump action. *Id.* at 1479, 1483–85, 1535–47. They did not recover any .243 caliber weapons or live .243 ammunition. *Id.* at 1489, 1547–48. But the officers did see a gun cabinet that had only one empty slot. *Id.* at 1481.

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[2] R.S. testified that he and Shockley had bought ammunition together for years, that Shockley placed the orders, and that he (R.S.) had never owned a .243 caliber gun. Tr. 1386. He also testified that the night of the murder was the only time that Shockley or C.S. brought him .243 ammunition. *Id.* at 1416.

[3] R.S. and other witnesses described seeing a .243 rifle with a scope on it. Tr.1405, 1731, 1744, 1748, 1792. One witness testified that the gun was kept in a gun cabinet. *Id.* at 1732.

[4] The jury heard testimony that Shockley wore overalls and that he was strict about not burning trash in the wood stove. Tr. 1124–25, 1572–73.

77. A Missouri State Highway Patrol firearms examiner compared class and individual characteristics on three bullet fragments recovered from Shockley's property to the slug pulled out of C.D.G.'s body. *Id.* at 1672. He concluded within a reasonable degree of scientific certainty that those bullet fragments and the slug were fired from the same weapon. *Id.* at 1676–77.

78. Two other examiners at the Highway Patrol Laboratory also examined the bullet fragments and the slug and came to the same conclusion. *Id.* at 1678–79.

79. The slug and some of the bullet fragments were identified as belonging to the .22 to .24 caliber class of ammunition, which would include .243-caliber ammunition. *Id.* at 1665–71.

80. The examiner also testified that the shotgun shell heads pulled from the wood stove were 12-gauge Olin/Winchester brand manufacture, which was consistent with the wadding found near C.D.G.'s body. *Id.* at 1702–03. A private forensic consultant also compared the bullet fragments and the slug recovered from C.D.G. *Id.* at 1581, 1583, 1595–98. He testified that the bullet fragments and the slug recovered from C.D.G.'s body had consistent class characteristics and had some individual characteristics that corresponded to one another. *Id.* at 1609, 1616. But he was unable to either identify or exclude any of the ammunition as being fired from the same gun. *Id.* at 1614.

81. The Highway Patrol firearms examiner also compared class and individual characteristics of the .243 shell casing found at R.S.'s home with the .243 shell casings found at Shockley's home. *Id.* at 1691–93. He concluded within a reasonable degree of scientific certainty that all of the shell casings had been fired from the same weapon. *Id.* at 1693–94.

82. Highway Patrol investigators went to Shockley's home the night of C.D.G.'s murder. *Id.* at 1921–22. When they arrived at the house the officers called Shockley on the phone; however, he refused to talk to them. *Id.* at 1927–29. Instead, Shockley came out on his porch and told the officers that he did not kill C.D.G. *Id.* at 1930–31. He also said that he had been at home all day, working with his neighbor, S.D.[5] *Id.* at 1932.

83. The officers visited Shockley at his worksite at about 11:30 the next morning. *Id.* at 1934–35. They approached Shockley, who was in his truck eating lunch with his cousin. *Id.* at

[5] Shockley gave that same alibi to C.C. earlier in the evening. Tr. 1123.

1779, 1935–36. Shockley told the officers to wait over by their cars while he ate. *Id.* at 1780, 1936.

84. The officers walked back to their car while Shockley stayed in the truck. *Id.* at 1783, 1937. Shockley borrowed a cell phone from his cousin and called C.S. *Id.* at 1783–84, 1938. He asked C.S. if the police had visited her, what they had asked her, and what she had told them. *Id.* at 1785. C.S. responded that she had told the officers that Shockley had been at the house all day on Sunday until 5:30 or 5:45, when he went to R.S.'s house for a few minutes. *Id.* at 1786. Shockley replied, "Okay, that will work, that will be fine." *Id.*

85. Shockley then talked to the officers and gave them a more detailed account of his activities the previous day, which this time had him visiting relatives, including his grandmother at 7:30 in the morning, and watching S.D. from his living room as S.D. pushed brush. *Id.* at 1939–40, 1944. That contrasted with the story he had told the night before, in which he had claimed to have worked all day and to have worked with S.D. *Id.* at 1940–41.

86. Shockley also did not say anything about borrowing his grandmother's car. *Id.* at 1944.

87. Shockley did admit to knowing that C.D.G. was investigating him for leaving the scene of a fatality accident and talking to witnesses. *Id.* at 1947. Shockley also gave an unprompted statement about not knowing where C.D.G. lived. *Id.* at 1944–45. As the officers left, Shockley said to them, "Don't come back to my house without a search warrant, because if you do there's going to be trouble and somebody is going to be shot."[6] *Id.* at 1946.

88. Shockley visited his grandmother later that day and instructed her to tell the police that he was home all day on Sunday. *Id.* at 1825. When the grandmother told Shockley that she would not lie for him, Shockley placed his finger over his mouth and said, "I was home all day Sunday. I was home all day Sunday. I was home all day Sunday." *Id.* at 1825–26.

89. Shockley told the cousin who overheard the phone conversation with C.S. to keep his mouth shut. *Id.* at 1787–88.

[6] Shockley was upset about an incident while he was being questioned

90. Shockley, later, asked the investigators to come to his house, where he berated them for interviewing his friends. *Id.* at 1954. Shockley also demanded to know who the officers had talked to and what they had said. *Id.* at 1955.

91. Shockley was arrested the day following that confrontation for leaving the scene of an accident. *Id.* at 1758, 1958. Shockley was not told the charge that he was being arrested on, and he stated that it probably had something to do with the trooper who had been shot. *Id.* at 1762.

92. Shockley denied borrowing his grandmother's car on the day of the murder. *Id.* at 1960–61. But when asked if his grandmother was lying when he said that he was driving the car, Shockley replied that she was not a liar. *Id.* at 1961. And when the officers confronted Shockley with their knowledge that C.S. had taken a box of .243 shells to R.S.'s house, Shockley dropped his head. *Id.* at 1961–63.

93. While he was in jail, Shockley told a former girlfriend and mother of his children that he had done something really stupid. *Id.* at 1575–76.

94. Shockley presented testimony at trial from one of the motorists who saw Shockley's grandmother's car on the rural road near C.D.G.'s house. *Id.* at 1993. That motorist testified that he had taken a stab at giving police the license plate number of the vehicle and had said that it could have contained the letters L and M. *Id.* at 1995, 2000. The license plate on Shockley's grandmother's car did not contain those letters. *Id.* at 2007. The witness also testified on cross-examination that he saw Shockley's grandmother's car after it was seized by the police and that there was no doubt in his mind that it was the car he had seen on the day of the murder. *Id.* at 2001–03, 2007.

95. The jury found Shockley guilty of murder in the first degree. *Id.* at 2059.

96. The State and the defense presented multiple witnesses in the penalty phase of the trial. *Id.* at 2062–137. The jury unanimously found the existence of three statutory aggravating circumstances: (1) that C.D.G. was a peace officer murdered because of the exercise of his official duty; (2) that C.D.G. was murdered for the purpose of preventing a lawful arrest of the defendant; and (3) that C.D.G. was a potential witness in the pending investigation of defendant for leaving the scene of a motor vehicle accident on or about November 26, 2004 and was killed as a result of his status as a potential witness. *Id.* at 2227.

97. The jury also returned a verdict stating that it did not unanimously find that there were facts and circumstances in mitigation of punishment sufficient to outweigh the facts and circumstances in aggravation of punishment. *Id.* at 2227–28.

98. The jury was unable to agree on punishment. *Id.* at 2227.

99. On May 22, 2009, this Court imposed a sentence of death. *Id.* at 2236. In doing so, this Court certified the jury's finding of the existence of the statutory aggravating circumstances and agreed with the jury's finding that the mitigating facts and circumstances did not outweigh the aggravating facts and circumstances. *Id.* at 2236.

Conclusions of Law[7]

In order to prevail on his motion, Shockley must meet the requirements of Section 547.035 which states:

> 1. A person in the custody of the department of corrections claiming that forensic DNA testing will demonstrate the person's innocence of the crime for which the person is in custody may file a postconviction motion in the sentencing court seeking such testing. The procedure to be followed for such motions is governed by the rules of civil procedure insofar as applicable.
>
> 2. The motion must allege facts under oath demonstrating that:
>
> (1) There is evidence upon which DNA testing can be conducted; and
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> (2) The evidence was secured in relation to the crime; and
>
> (3) The evidence was not previously tested by the movant because:
>
> (a) The technology for the testing was not reasonably available to the movant at the time of the trial; or
>
> (b) Neither the movant nor his or her trial counsel was aware of the existence of the evidence at the time of trial; or

[7] Additional findings of fact will be included in the conclusions as necessary to explain the basis for this Court's ruling.

(c) The evidence was otherwise unavailable to both the movant and movant's trial counsel at the time of trial; and

(4) Identity was an issue in the trial; and

(5) A reasonable probability exists that the movant would not have been convicted if exculpatory results had been obtained through the requested DNA testing.

3. Movant shall file the motion and two copies thereof with the clerk of the sentencing court. The clerk shall file the motion in the original criminal case and shall immediately deliver a copy of the motion to the prosecutor.

4. The court shall issue to the prosecutor an order to show cause why the motion should not be granted unless:

(1) It appears from the motion that the movant is not entitled to relief; or

(2) The court finds that the files and records of the case conclusively show that the movant is not entitled to relief.

5. Upon the issuance of the order to show cause, the clerk shall notify the court reporter to prepare and file the transcript of the trial or the movant's guilty plea and sentencing hearing if the transcript has not been prepared or filed.

6. If the court finds that the motion and the files and records of the case conclusively show that the movant is not entitled to relief, a hearing shall not be held. If a hearing is ordered, counsel shall be appointed to represent the movant if the movant is indigent. The hearing shall be on the record. Movant need not be present at the hearing. The court may order that testimony of the movant shall be received by deposition. The movant shall have the burden of proving the allegations of the motion by a preponderance of the evidence.

7. The court shall order appropriate testing if the court finds:

(1) A reasonable probability exists that the movant would not have been convicted if exculpatory results had been obtained through the requested DNA testing; and

(2) That movant is entitled to relief.

Such testing shall be conducted by a facility mutually agreed upon by the movant and by the state and approved by the court. If the parties are unable to agree, the court shall designate the testing facility. The court shall impose reasonable

> conditions on the testing to protect the state's interests in the integrity of the evidence and the testing process.
>
> 8. The court shall issue findings of fact and conclusions of law whether or not a hearing is held.

Shockley bears the burden of meeting the requirements of Section 547.035 by a preponderance of the evidence. However, court must assume all allegations contained in Shockley's motion are "true and liberally grant all reasonable inferences therefrom" in determining whether or not he should prevail on his motion. *State v. Caudill*, 676 S.W.3d 64, 68 (Mo. App. 2023). But "[c]onclusory allegations of fact and legal conclusions are not considered in determining whether a petition states a claim on which relief can be granted." *Bray v. Mo. Dep't of Corr.*, 498 S.W.3d 514, 518 (Mo. App. 2016) (alteration in original) (quoting *Hope Acad. Corp. v. Mo. State Bd. of Educ.*, 462 S.W.3d 870, 874 (Mo. App. 2015)).

The adequacy of a post-conviction DNA motion "must be considered in light of the purpose of Section 547.035: to provide inmates an opportunity to have potentially exculpatory DNA tests performed on evidence." *Id*. "If the court finds that the motion and the files and records of the case conclusively show that the movant is not entitled to relief, a hearing shall not be held." *Id*. (quoting § 547.035.6).

Here, Shockley's motion fails to state a basis for this Court to hold an evidentiary hearing for two independently adequate reasons.

I. First, the evidence at trial clearly pointed to Shockley's guilt, and Shockley has failed to plead facts from which this Court could find that there is a reasonable probability the outcome of the trial would have been changed by the discovery of DNA from another person found on any of the items Shockley now wishes to have tested.

II. Second, Shockley has failed to allege facts from which this Court is persuaded that technology for the testing the items Shockley wishes to now test was not reasonably available to Shockley at the time of the trial. Shockley does not allege facts showing that touch DNA analysis or STR testing was not reasonably available to him at the time of the trial. Even giving Shockley the benefit of every reasonable inference, this Court finds that, at best, Shockley alleges that DNA testing technology has improved

since the time of his trial, but that allegation does not entitle him to testing under § 547.035.

Shockley fails to sufficiently plead facts which lead this court to conclude a reasonable probability exists that he would not have been convicted if exculpatory results had been obtained through the requested DNA testing.

In order to prevail on his motion, Shockley must allege facts which demonstrate: "A reasonable probability exists that [Shockley] would not have been convicted if exculpatory results had been obtained through the requested DNA testing." § 547.035.2(5).

The Court will first outline some of the evidence that it believes overwhelmingly pointed toward Shockley's guilt.

First, the state clearly showed that Shockley had a significant motive to murder C.D.G. It was undisputed at trial that Shockley was being investigated at the time by C.D.G. for an automobile accident that resulted in the death of another. It was also undisputed that Shockley knew C.D.G. was investigating him at time C.D.G. was murdered.

Next, the court is persuaded that Shockley borrowed his grandmother's automobile earlier on the day C.D.G was murder. Witnesses saw that vehicle parked near C.D.G.'s. house on the day of C.D.G.'s murder. Shockley also inquired as to the location of C.D.G.'s home prior to the time C.D.G. was murdered. Based on these facts, this court is convinced that Shockley was present when C.D.G. was murdered, a very strong indicator of Shockley's guilt.

Shockley was known to have both types of firearms that were used in the murder of C.D.G. The plastic wadding recovered from the scene was from a shotgun shell that could have matched the bronze heads to two shotgun shells found in the wood burning stove outside of Shockley's house. The evidence supports that C.D.G. was shot two times with a shotgun. The court finds that the two bronze heads of shotgun shells in the furnace to be a particularly damming piece of evidence because shotgun shells are normally plastic, and have bronze heads. A woodburning stove is not typically a place a person would discard expended shotgun shells as they will likely not burn completely and they could emit a noxious odor inside the house. This court is persuaded Shockley discarded the two shotgun shells he used to shoot C.D.G. in the furnace in an attempt to conceal them from law enforcement. Furthermore, the evidence shows

that Shockley attempted to rid himself of a box of .243 caliber ammunition around the time of C.D.G.'s murder. The Court also finds it very significant that a .243 caliber rifle was not recovered from Shockley's home despite there being substantial evidence that Shockley owned a .243 caliber rifle, which the court is convinced Shockley also concealed from law enforcement. Some of the strongest evidence against Shockley, despite what he alleges in his motion, is that the spent .243 caliber round recovered from C.D.G.'s body matched spent .243 caliber rounds recovered from Shockley's property. Destroying or discarding evidence is a strong indication that Shockley had consciousness of guilt. Indeed, this court is convinced, as was the jury, that Shockley is guilty.

Finally, the evidence this court believes is the strongest indicator of Shockley's guilt was the fact that he attempted to silence his family members, created a false alibi, and lied to law enforcement as to his location at the time of C.D.G.'s murder. Based on the plethora of evidence presented at trial, this court believes, like the jury did, that Shockley committed C.D.G.'s murder and any DNA recovered from the scene could, at best, show that he did not act alone.

Shockley's motion is requesting to test ten separate items for the presence of DNA. Those items are:

I. A cigarette butt collected from the scene.
II. 1 plastic wadding.
III. 4 pieces of paper wadding.
IV. 1 plastic wadding.
V. 1 piece of paper wadding.
VI. 4 latent prints collected from Sgt. Graham's patrol car.
VII. 1 latent print collected from Sgt. Graham's truck on his property.
VIII. A cell phone recovered from a wooded area near where the crime occurred;
IX. A handicap hanging placard; and
X. A piece of paper with unknown substance.

The facts that Shockley pled in his motion are not sufficient for this court to find a reasonable probability exists he would have been exonerated if DNA tests of these items would have yielded DNA of another. "A defendant is not entitled to DNA testing when he fails to explain how the testing of the items would exonerate him." *Id.* (citing *Westcott,* 121 S.W.3d at 546). This is true even if this Court were to speculate that the testing Shockley seeks would exclude Shockley as contributor of any DNA profile that might be obtained from the items Shockley lists.

Shockley's motion claims three possible theories as to how he believes testing these items may lead to proving his innocence. (1) Identifying the perpetrator; (2) a redundant unknown profile on multiple pieces of evidence; and/or (3) the perpetrator confessing after being confronted with irrefutable DNA evidence. *See* Motion at 11. Point 1 "Identifying the Perpetrator" appears to be included in the analysis they lay out for Points 2 and 3.

Shockley's Redundancy Theory states he would have been found innocent if the tests he now wishes to conduct established there was "…the presence of a redundant profile on multiple pieces of evidence from the crime scene…" *See* Motion at 12. This argument fails to convince this court that there is a reasonable likelihood he would have been exonerated even if it were true. Like the movant in *Prewitt,* Shockley primarily seeks DNA evidence in the form of "touch DNA." *Prewitt,* 575 S.W.3d at 711. Also similar to *Prewitt,* Shockley claims, "if it could be shown that touch DNA of the same person could be found on [the pieces of evidence Shockley lists], this 'redundancy' would substantiate [his] allegations." *Id.* The redundancy theory fails for several reasons.

First, Shockley has not, and cannot, contend that all of the items he wishes to test must necessarily be associated with C.D.G.'s murder. The evidence Shockley lists in his motion largely consists of items found on and around C.D.G.'s driveway at the time evidence technicians were processing the crime scene. *See* Mot. at 2. He has not shown that all of the items he lists were necessarily deposited by the perpetrator of C.D.G.'s killer. Instead, there remains the distinct possibility that several of the items are entirely unrelated to C.D.G.'s murder and were deposited by any number of individuals who were not the C.D.G.'s killer. Shockley has not specifically plead how each of these items, other than the plastic wadding from the shotgun shells, was connected to the C.D.G.'s murder except for the fact that they were located at the scene.

Other than plastic wadding from the shotgun shells, there are no facts plead that indicate to this court that any of the items he wishes to test were even deposited at the time of C.D.G.'s murder. Any DNA found the items Shockley wishes to test, assuming any exists at all, could have been deposited there days, weeks, or even months prior to C.D. G.s murder.

Several of the items Shockley wants tested could have been deposited or discarded by any number of possible prior guests visiting C.D.G.'s home or by other passersby. Even the latent prints Shockley identifies could have been left by J.H., the woman who found C.D.G.'s body and notified authorities. *See* Tr. at 1199, 1208–11.

There are no facts pled in Shockley's motion to suggest any of the items listed for testing are directly related to the death of C.D.G., other than the plastic shogun shell waddings. However, the court does not find that Shockley pled sufficient facts in his motion to indicate how the plastic shot gun shell waddings would yield any exculpatory evidence. Shockley's attorney attempted to explain this at the Show Cause Hearing by arguing many people living in the area where C.D.G. was killed, "pack their own shells." *See* Show Cause Tr. 24-25. She further argued that testing the plastic wadding would, "… show who did that." *Id.* However, there is no evidence pled in Shockley's motion that alleges the wadding came from a shotgun loaded at home versus one that was loaded at a factory. If Shockley had shown the wadding was from a shotgun shell loaded by a private individual rather than a factory, and if DNA evidence from someone other than Shockley was discovered on the wadding, that evidence would simply show someone else loaded the shell or that someone else handled the plastic wadding at some other time. That person could have given those shells to Shockley years prior to killing C.D.G. or could have been a law enforcement officer, prosecutor, evidence technician or someone of the sort. As a result, the court finds no reasonable probability exists, based on the information pled in Shockley's motion, as well as the trial transcript, that he would not have been convicted had DNA results from the plastic wadding been available at his trial. This is especially true in light of all of the trial evidence.

Second, if other individuals later touched the items Shockley lists for testing, those individuals would leave their own DNA, contaminating the results. *Prewitt*, 575 S.W.3d at 711. In *Prewitt*, "Sheriff's officers, prosecutors, evidence experts, and even jurors may have touched the evidence leaving their own touch DNA." *Id.* Here, Shockley does not identify whether there were other individuals known to have touched the evidence he seeks to test, let alone how those

profiles could be controlled for. Even if all known individuals who touched the evidence could be isolated and a redundant DNA profile of an unknown individual extracted, such results might only show that Shockley found someone to help him carry out C.D.G.'s murder.

In a case like this, even if all of the tested items excluded Shockley as a contributor of DNA, more would be required to convince this court that the evidence would have exonerated Shockley. Here, for the testing Shockley seeks to meaningfully point to an alternative perpetrator, rather than a passerby or a patron, Shockley would also need to exclude the contribution of any number of individuals, including C.D.G.'s recent visitors, members of C.D.G.'s household, investigating law enforcement officers, and documented witnesses, like J.H. Shockley has not pled that these necessary control samples should be tested, let alone whether such samples are available. Shockley's motion should have included this information. *Snowdell v. State*, 90 S.W.3d 512, 515 (Mo. App. 2002).

Shockley cannot now request, nor could he have requested in his motion, to take new control samples from these other individuals as part of his postconviction request for DNA testing, because "the motion court is without authority to order a physical examination of a victim, witness, or third party." *Id.* (citing *State v. Sinner*, 772 S.W.2d 719, 720–21 (Mo. App. 1989)). Without being able to extract these control profiles, even if one DNA profile is present on more than one of the items Shockley lists, a reviewer could not exclude the explanation that the redundancy may have occurred because the items all belonged to or were handled at some point by a single guest of C.D.G.'s, or by a random passerby. Thus, even if the testing Shockley seeks excludes Shockley as a contributor to any DNA profile obtained from the transient crime scene items Shockley seeks to test or re-test, those potentially exclusionary results would not lead this court to find that a reasonable probability exists that he would not have been convicted had that information been available at his trial.

Shockley's Databank Theory proposes that "A foreign DNA profile developed from the crime scene collected in this case could establish Shockley's actual innocence…" by matching a profile from a piece of evidence at the scene to a profile that is already uploaded into the CODIS databank. Mot. at 15. His Data Bank theory fails for many of the same reasons as his Redundancy theory.

Even if a profile were discovered on a piece of evidence from the scene and if that profile matched one that is uploaded into CODIS, it would simply show some else touched that item at some unknown time. There is no guarantee that a profile found in CODIS will be linked to a known person. It very possibly could be matched to another unknown profile. "The only possible way DNA evidence could be truly exculpatory would be if it were linked to an unknown person in the FBI's database, [Shockley] could prove that individual killed [C.D.G.], and [Shockley] could prove [he] was not in collusion with that individual." *Prewitt*, 575 S.W.3d at 712. Even if one were to consider Shockley's Databank Theory in conjunction with Shockley's Redundancy Theory, there is no reasonable probability that matching a DNA profile on any of the items he wishes to test would have changed the outcome of his trial. Therefore, he has failed to meet his burden.

Shockley's "Confession Theory" is a mere hope and speculation on his part that someone MIGHT confess if their DNA is discovered on any of these items. There is no reasonable probability that someone will confess to C.D.G.'s murder even if officers were able to identify someone else's DNA on these items who is still alive and locate that person for questioning. As a result, the court does not find that his Confession Theory is likely to lead to the uncovering of exculpatory evidence. "The additional evidence and circumstances outside the record that [Shockley] asks [this Court] to consider, in finding that a different result would have occurred in his case, do not constitute 'exculpatory results' of the DNA testing itself." *Hudson*, 190 S.W.3d at 445. Under his Confession Theory, Shockley invites this court to speculate that *if* the requested DNA testing excluded Shockley as a contributor, *and if* that exclusion was exculpatory, *and if* the requested DNA testing identified an unknown DNA profile suitable for comparison, *and if* that profile could be added to some unidentified DNA database or databases, *and if* that profile were found to "match" a known profile in such unidentified DNA database or databases, *and if* law enforcement officers could track that profile to an individual and could track that individual down for an interview, *then* officers could potentially use the DNA testing results to obtain a confession from that individual based only on the testing results. Mot. at 16–17. "Clearly, the statute does not allow anything but the test results to be considered in determining whether there would have been a different result in [Shockley's] case. It does not allow for the consideration of the 'other evidence' [Shockley] desires to develop from the test results[.]" *Hudson*, 190 S.W.3d at 445.

Regardless which one of Shockley's theories this Court chooses to apply, Shockley cannot show that a reasonable probability exists that he would not have been convicted if exculpatory results had been obtained through the requested DNA testing. Especially in light of the overwhelming amount of evidence pointing to Shockley's guilt which this court has already outlined.

This Court denies Shockley's motion without a hearing because Shockley failed to sufficiently plead facts which convince this court a reasonable probability exists that he would not have been convicted if exculpatory results had been obtained through the requested DNA testing.

Shockley fails to sufficiently plead that the technology for the testing was not reasonably available to him at the time of the trial.

To properly state a basis for this Court to hold a hearing regarding DNA testing under § 547.035, the movant must allege facts "demonstrating one of the three alternative justifications set out in the statute as to why he or she did not previously test the evidence." *Caudill*, 676 S.W.3d at 70 (quoting *State v. Fields*, 517 S.W.3d 549, 558 (Mo. App. 2016)).

Shockley alleges he can demonstrate the first of these alternative justifications, Mot. at 7–10, which requires him to show that "[t]he evidence was not previously tested by" Shockley because "[t]he technology for the testing was not reasonably available to [him] at the time of the trial." § 547.035.2(3)(a).

The Missouri Supreme Court has stated that this test requires the movant to prove "the technology for the testing was not *reasonably available to the movant*' at the time of trial." *Fields*, 517 S.W.3d at 553–54 (quoting *Weeks v. State*, 140 S.W.3d 39, 47 (Mo. 2004)) (emphasis in original).

According to the Missouri Supreme Court, this test "is a *subjective* one, subject to a reasonable *availability* standard, not a question of objective scientific feasibility." *Id.* at 554 (quoting *Weeks*, 140 S.W.3d at 47) (emphasis in original).

Shockley cannot demonstrate the technology was not reasonably available to him at the time of his trial. As stated above, Shockley's jury trial began on March 18, 2009. DNA testing was readily available at that time and had been for many years. *See Dist. Att'ys Off. For Third*

Jud. Dist. v. Osborne, 557 U.S. 52, 55 (2009) (stating that States have "recognized" the importance of DNA in both inculpating and exculpating suspects); *see also State v. Kinder*, 942 S.W.2d 313, 327–28 (Mo. 1996) (discussing "the reliability of the statistical means that are used to attach a numerical significance to a genetic match between two samples"); *State v. Davis*, 814 S.W.2d 593, 598–603 (Mo. 1991) (discussing "DNA fingerprinting" and finding the evidence related to it admissible under the applicable standard).

Perhaps more importantly, DNA testing was completed on several items seized in relation to the investigation of Shockley's offense. *See* Movant's Ex. 4. Shockley concedes as much in his motion. Mot. at 1, 2 n.1, 7.

On the record in this case, and based on Shockley's motion, there is no real argument that DNA testing was not reasonably available to Shockley and his counsel prior to his trial. Thus, instead of asserting that the technology for DNA testing was not available at the time of his trial, Shockley appears to argue that he should be allowed to undertake DNA testing because laboratories can now complete STR[8] DNA testing and a specific style of analysis which he refers to as "touch DNA." Mot. 8. But, as the Missouri Court of Appeals recognized in 2002, the Missouri State Highway Patrol has been performing STR testing "since April of 1999." *State v. Salmon*, 89 S.W.3d 540, 542 (Mo. App. 2002). Thus, Shockley's motion requests a second bite at the proverbial DNA-testing apple based on the conclusory allegation that a specific form of STR testing might, if other attenuated circumstances also occur, assist Shockley in proving his innocence

Section 547.035 does not authorize successive DNA tests in these circumstances. The Missouri Court of Appeals denied a similar argument concerning a capital offender's request to complete Polymerase Chain Reaction DNA testing after Restriction Fragment Length Polymorphism DNA evidence was introduced at his trial, the General Assembly's enactment of § 547.035 provides "no legislative intent to allow serial retesting of evidence due to a change in DNA technology." *State v. Kinder*, 122 S.W.3d 624, 632 (Mo. App. 2003). "To so hold[,]" the *Kinder* court continued, "would upset the balance the legislature has struck, and allow a movant

[8] STR refers to repeating sequences of DNA referred to as "short tandem repeats."

to claim that, with every new technology or new refinement thereof, he had a right to retest the evidence." *Id.* "Such an interpretation of the statute could result in repeated requests for DNA retesting, thereby preventing a conviction from ever becoming final." *Id.*

While the Supreme Court of Missouri has stated that § 547.031.2(3)(a) "contemplates technological developments that will permit later testing; where new testing techniques become available that shed doubt on previous findings[,]" *Belcher*, 299 S.W.3d at 297, the Missouri Court of Appeals has repeatedly reaffirmed the continuing validity of *Kinder*'s limiting rule since that time. *Caudill*, 676 S.W.3d at 69–70 (applying *Kinder* to deny the offender both a hearing and testing under 547.035.2(3)(a)); *State v. Harris*, 627 S.W.3d 47, 53–54 (Mo. App. 2021) (discussing continuing validity of *Kinder*); *Fields v. State*, 425 S.W.3d 215, 217 (Mo. App. 2014) (stating "*Kinder* is still good law" for principle that "there is no second bite of the apple").

Put another way, where DNA testing technology was reasonably available at the time of trial, as in Shockley's case, and a movant later requests testing under a new method of DNA analysis, the movant must plead and subsequently demonstrate that: (1) the new method or technology was not reasonably available to him or her at the time of his or her trial; *and* (2) the new method demonstrates the DNA testing technology or method employed or available at the time of his or her trial was unreliable. *See Belcher*, 299 S.W.3d at 297; *see also Harris*, 627 S.W.3d at 53–54; *Caudill*, 676 S.W.3d at 69–70. Shockley's motion fails on both points.

Shockley fails to plead facts sufficient to make a prima facie showing that STR testing or touch DNA analysis was not reasonably available to him at the time of his trial. *See* Mot. at 7–10. While he makes the conclusory assertions that "[s]ince the development of STR testing, technology has evolved[,]" that "technology today can amplify 'touch DNA' or 'trace DNA[,]'" and that "[h]ypersensitive amplification kits now exist that did not exist at the time of Shockley's trial[,]" Shockley does not appear to plead any facts that show that touch DNA, in any form, was not reasonably available to him at the time of his trial. *Id.* at 8. Instead, he merely appears to assert that touch DNA has become more technologically advanced since his trial, in that it can provide more sensitive results. *Id.* But the mere fact that the technology has evolved, does not mean that touch DNA testing was not reasonably available to him at the time of his trial. While it may be true that new technology is more sensitive as Shockley claims in his petition, this court notes that Shockley never attempted to test any item for touch DNA using the technology that he

admits was in existence at the time of his trial. Shockley failed to plead facts that would allow this Court to find that touch DNA was not reasonably available to him at the time of his trial; therefore, his motion fails.

Further, the record demonstrates that Shockley was represented by counsel who was undoubtedly aware of the possibility for DNA testing, as the record shows that DNA testing was completed in this case. *See Weeks*, 140 S.W.3d at 48 (considering the knowledge, nature, and sophistication of litigant and his former counsel). Shockley has not pleaded that his counsel was unaware of the DNA testing in his case or the use of touch DNA testing. *See* Mot. at 1–19.

Even if Shockley's petition could be construed as pleading that STR DNA testing or touch DNA analysis was not reasonably available to him in 2009, Shockley fails to allege any facts from which this Court could find that the DNA testing that the DNA testing which was reasonably available to Shockley prior to his trial was unreliable. *See* Mot. at 7–10. Indeed, even taking Shockley's allegations as true and liberally granting Shockley all reasonable inferences, he pleads no facts concerning the reliability of the DNA analysis available at the time of his trial that would allow this Court to now grant additional testing. *See id.* This remains true even if this Court considers the affidavit of M.C. as being incorporated into Shockley's motion. *See* Movant's Ex. 5.

At best, Shockley alleges that touch DNA analysis might be more "sensitive" or that technology might have "evolved" since 2009, Mot. at 8, but that is not enough under *Kinder* and its progeny. *See Kinder*, 122 S.W.3d at 632. In fact, the Missouri Court of Appeals recently rejected a similar challenge, relying on testimony from a former DNA analyst that STR DNA testing was the "gold standard" of DNA testing between 2004 and 2005. *Harris*, W.3d at 53–54. While *Harris* was denied after an evidentiary hearing, Shockley carries the burden of pleading sufficient facts to warrant an evidentiary hearing, which includes pleading facts sufficient to make a prima facie demonstration that the DNA testing available to him was unreliable. *See Belcher*, 299 S.W.3d at 297; *see also Harris*, 627 S.W.3d at 53–54; *Caudill*, 676 S.W.3d at 69–70. Instead of pleading those facts, Shockley simply alleges that touch DNA may allow for the development of a profile from smaller amounts of genetic material. Mot. at 7–10. These allegations are inadequate for Shockley to show, as he must under § 547.031.2(3)(a), that the DNA testing available to him at the time of his trial was unreliable. *See Belcher*, 299 S.W.3d at 297; *see also*

Harris, 627 S.W.3d at 53–54; *Caudill*, 676 S.W.3d at 69–70. Thus, this motion is denied without an evidentiary hearing. *See Belcher*, 299 S.W.3d at 297; *see also Harris*, 627 S.W.3d at 53–54; *Caudill*, 676 S.W.3d at 69–70.

CONCLUSION

Therefore, for the reasons stated above, this Court **DENIES** Shockley's motion and amended motion for post-conviction DNA testing without an evidentiary hearing. **Further**, it is ordered that any pending motion or matter not specifically addressed by this Court is **DENIED**.

SO ORDERED.

07/11/2025

Date

Judge Kacey L. Proctor
Presiding Circuit Judge
36th Judicial Circuit