

**Summary of June 7, 2022 Final Report of Independent Investigation of *State v. Ricard Glossip*
Prepared by Reed Smith LLP at Request of Oklahoma Legislature’s Ad Hoc Committee re:
*State v. Glossip***

July 21, 2022

The purpose of this document is to provide a summary of certain aspects of the Final Report regarding Independent Investigation of *State v. Richard E. Glossip* dated June 7, 2022 prepared by Reed Smith LLP (the “Report”). The Report was prepared at the request of an Ad Hoc Legislative Committee of Oklahoma legislators (“Legislative Committee”) who have expressed concerns regarding the integrity of Richard Glossip’s conviction.¹

The Legislative Committee asked Reed Smith to take an independent look and address the following two questions:

- 1) Was the verdict from Glossip’s 2004 retrial reliable in light of facts and evidence now known?; and
- 2) Does this investigation suggest any recommendations that would improve Oklahoma’s criminal justice system?

Reed Smith is a global law firm that previously had no connection to the Glossip case and conducted an independent investigation to address the above questions. The investigation spanned approximately four months with a team of over 30 attorneys, three investigators and two paralegals. We also had the assistance of the Oklahoma law firm of Crowe & Dunlevy.²

¹ A full copy of the report can be obtained at https://www.reedsmith.com/-/media/files/news/2022/glossipindependentinvestigation_finalreport.pdf.

² The independent investigation leading up to the Report included: (1) reviewing more than 12,234 documents (approximately 146,168 pages); (2) reaching out to 72 witnesses, 11 jurors from the retrial and 2 experts; (3) interviewing 36 witnesses, including a 3.5 hour interview with Richard Glossip; (4) reaching out to Van Treese family members to provide an opportunity to be heard; (5) corresponding with Justin Sneed to attempt to obtain an interview; (6) contacting prosecution and defense lawyers; (7) requesting numerous records and evidence from various sources; and (8) obtaining new documentation and speaking with witnesses never before interviewed, either by police, prosecution or Glossip’s defense teams. We have continued even after submission of the Report to follow up on document requests, including unfulfilled requests to the Oklahoma County DA’s offices, and we continue to speak to witnesses that have come forward. We reserve the right to supplement our report with additional information, but none of the additional information we have obtained alters our findings and some of it further supports the findings in the Report.

On the first question, the Report concludes that **“the 2004 trial [of Glossip] cannot be relied on to support a murder-for-hire conviction. Nor can it provide a basis for the government to take the life of Richard E. Glossip.”**

In addition, as we have stated since we released the Report:

Considering the facts we uncovered, and that there exists no physical forensic evidence or credible corroborating testimony linking Glossip to the crime, our conclusion is that no reasonable juror hearing the complete record would have convicted Richard Glossip of first-degree murder.

In response to the second question, the Report includes various recommendations to improve the administration of Oklahoma’s criminal justice system particularly with respect to cases where the State seeks the death penalty. This includes the most basic recommendation that evidence collected in cases where the State is seeking to impose the death penalty should never be destroyed, and certainly not before trial as occurred in this case. No defendant should be executed if such destruction of material or potentially exculpatory evidence has occurred.

Summary of Basic Facts³

Justin Sneed brutally murdered Barry Van Treese with a baseball bat early in the morning on January 7, 1997. The murder occurred in Room 102 of the Best Budget Inn Motel in Oklahoma City, Oklahoma, a motel that Mr. Van Treese owned along with another motel by the same name in Tulsa. Sneed lived for free at the Oklahoma City motel in exchange for providing maintenance services. Richard Glossip was the motel manager. He lived there along with his girlfriend. He was paid a salary and received a monthly bonus if the motel hit a certain revenue benchmark. In 1996, Glossip received a bonus in every month except December.

After being missing for the entire day, Mr. Van Treese’s body was found late in the evening on January 7, 1997. Sneed had fled the scene by that time. Glossip remained at the scene and told police he suspected Sneed was involved. Based on reports that Glossip had provided inconsistent information regarding Mr. Van Treese’s whereabouts, the police immediately

³ A complete recitation of the facts are fully set forth in the Report. Because this document is a summary we have omitted citations to the evidence. The Report contains extensive citations to the evidence in more than 1,000 footnotes and we encourage those interested in this case to read the Report in its entirety.

surmised that Glossip was involved in the murder. Glossip and his girlfriend D-Anna Wood were taken to the police station for questioning. After being interrogated by detectives Bemo and Cook, Glossip was taken back home to the motel early in the morning on January 8, 1997. He was not charged with any crime. At the same time, the police picked up a surveillance video tape from the nearby Sinclair Gas Station. The tape was given to the Homicide Supervisor on duty and has never been seen since. The police requested surveillance on Glossip either late January 8 or early morning January 9, 1997.

On January 9, Glossip visited a criminal defense attorney's office. Immediately after the visit, police picked Glossip up and transported him again to the police station where he was interrogated by detectives for a second time. During that second interrogation, Glossip informed the detectives that Sneed told him early in the morning hours of January 7 that Sneed killed Mr. Van Treese. After this second interrogation, Glossip was arrested for first-degree murder. Five days later, he was formally charged, but only as an accessory after the fact.

Sneed was not arrested until January 14, 1997, at his new residence. He was brought to the police station and was interrogated by Detectives Bemo and Cook. Sneed admitted to killing Mr. Van Treese with a baseball bat, and early on in Sneed's interrogation, Detectives Bemo and Cook told Sneed they did not believe he acted alone and brought up Glossip's name six times before Sneed ever implicated Glossip as involved in the murder. This included telling Sneed that Glossip had been arrested, that Glossip was pointing the finger at Sneed as the sole killer, and that Glossip said that Sneed had confessed to him about killing Mr. Van Treese, among other things. No other name besides Glossip's was suggested to Sneed. Ultimately, Sneed identified Glossip as the mastermind behind Mr. Van Treese's murder, stating that Glossip promised Sneed money to kill Mr. Van Treese, and that Glossip wanted to take over the motel without Mr. Van Treese being the boss. Sneed said he took money from Mr. Van Treese's car (\$4,000 after first saying it was \$5,000) and then split the money with Glossip. Sneed was arrested for murder.

By January 23, 1997, both Sneed and Glossip were charged with first degree murder. On May 26, 1998, Sneed entered a written plea deal with the State to avoid the death penalty. He agreed in exchange to testify against Glossip. In 1998, Glossip was convicted of first degree murder and sentenced to death, but that murder conviction was overturned by the Oklahoma

Court of Criminal appeals based on ineffective assistance of counsel. Glossip was retried in 2004 and was convicted and sentenced to death. Before the retrial, and while the appeal from his first conviction was pending, the Oklahoma City Police Department at the request of the District Attorney's Office, destroyed a box of evidence containing 10 items collected from the murder scene (Room 102) and Mr. Van Treese's vehicle. This evidence, therefore, could not be used by Glossip during his retrial and is now unavailable for further review or examination, a right given to Glossip under the Oklahoma Postconviction DNA Act. Glossip's conviction was affirmed on appeal and various requests for state and federal post-conviction relief were denied. In 2014, the Oklahoma Pardon and Parole Board denied Glossip clemency.

Glossip has maintained his innocence since 1997 and no physical evidence links him to the crime scene or the murder. The only witness identifying Glossip as a participant in the murder is the actual killer, Justin Sneed, who testified in exchange for the State not seeking the death penalty.

Summary of Basic Findings Regarding Glossip's Case

Regarding the Glossip case itself, the Report contains the following basic findings that cast grave doubt as to Glossip's conviction and death sentence:

- The State's destruction of material evidence *before* Glossip's capital murder retrial demonstrates a breakdown of our criminal justice system.
- The lead detective's questionable police tactics contaminated the interrogation of Justin Sneed (the actual killer) and yielded fabricated statements by Sneed that Glossip masterminded the murder of Mr. Van Treese.
- Detective Bemo's conduct in leading Sneed to implicate Glossip as the mastermind of a murder is even more troubling when considering that Detective Bemo has since made statements acknowledging that this was not likely a planned murder, but rather a robbery gone bad as we conclude was likely the case.
- The Oklahoma City Police Department's loss of a surveillance videotape from the night of the murder and the premature release of key evidence before Glossip was even

charged with first-degree murder raise serious chain of custody issues and demonstrate a lack of attention to detail necessary for a homicide investigation.

- The police investigation involved other significant deficiencies that call into doubt the case against Glossip, including the failure to interview critical witnesses.
- Substantial evidence supporting Glossip's innocence and undermining the State's case against Glossip exists and was never presented or fully explained to the jury. This includes: (1) evidence refuting that Sneed split money with Glossip, (2) evidence that contradicts Sneed's own statements, including he had a history of anger and violent outbursts, (3) evidence of Sneed's changing story to accommodate new facts, (4) evidence refuting the State's motive theory, including that there was no embezzlement, and (5) evidence showing that a State corroboration witness, Cliff Everhart, had a history of fabricating statements and subsequently went to prison for criminal charges, one of which being making false statements.
- The State's evidence of corroboration was flimsy and did not adequately corroborate Sneed's testimony that Glossip was involved in the murder, as required by Oklahoma law. The State presented no credible evidence at trial that independently (*i.e.*, without Sneed) connected Glossip to Van Treese's murder. Even viewed in the light most favorable to the State, the evidence independent of Sneed that was presented at trial focused on Glossip's after-the-fact conduct which under Oklahoma Criminal Court of Appeals precedent (*Cummings v. State*) could only support an accessory after the fact charge, and not a murder charge.
- The jury was not provided with the required legal framework under Oklahoma law to properly evaluate Sneed's testimony and any independent evidence corroborating his testimony that Glossip was involved in the murder. This grave error resulted in the jury viewing the State's "corroborating evidence" as adequate when it in fact could not pass the test. Under Oklahoma law, the jury is required to eliminate the testimony of Sneed entirely and still be able to find some separate evidence that tends to connect Glossip with the commission of murder. The jury did not engage in this

analysis and no such evidence (without Sneed) was presented by the State that would independently connect Glossip to the murder.

- The prosecution improperly distorted the evidence to fit its theory of the case. Multiple witnesses at the retrial changed or added new information that they had never told police.
- Glossip's defense counsel made numerous errors during the trial, appellate and post-conviction proceedings. The most glaring of which were to do nothing about the destruction of evidence by the State before the retrial, and to not even play the Sneed interrogation tape for the jury that would have showed police namedropping Glossip six times in the first twenty minutes (*i.e.*, before Sneed implicated Glossip as being involved). This was even after the Court of Appeals in reversing Glossip's first conviction found the failure to play the tape the most egregious defense error. Multiple jurors expressed they would have wanted to see this videotape.
- Members of the parole board had conflicts of interest which made Glossip's 2014 clemency hearing fundamentally unfair. One member of the parole board was even a former colleague of the lead prosecution attorney (they tried cases together) and this member led the cross-examination of Glossip at the parole board hearing.

We further summarize some of the findings from our Report below but maintain there is no substitute for a full reading of the Report in its entirety. The failure to cover any aspect of the Report in this summary should not be construed as a statement regarding the relative importance of that information. We have attempted to create here a relatively short summary and necessarily could not include everything from our 259 page report (not including appendices).

Since our Report has been made public, we have not received information from the State or otherwise with any material challenges to our findings. The only information from any State actor we have seen are press statements from Oklahoma County District Attorney David Prater contesting our finding that the District Attorney's Office (as opposed to the Oklahoma City Police department) ordered the destruction of evidence that occurred, but no evidence supporting that assertion has been provided. The fact that evidence was destroyed by the State before Glossip's

retrial remains undisputed. This type of misconduct by the State should never happen in a capital murder case.

I. The State's Destruction of Evidence

There is no dispute that the State destroyed a box of evidence containing 10 items while Glossip was appealing his first conviction and *before* his retrial. The evidence uncovered by our investigation demonstrated that the Oklahoma County District Attorney's office initiated the destruction, and it was carried out by the Oklahoma City Police Department; specifically, by Detective Janet Hogue, who at the time was Detective Bemo's partner (Detective Bemo was the lead homicide detective on the Glossip case). As confirmed by former Assistant District Attorney, Gary Ackley, this destruction of evidence violated a long-standing agreement between the DA's office and the police department that evidence in a capital murder case would never be destroyed.

These are newly discovered facts, and no evidence has been provided to dispute them. The destroyed evidence includes financial records from the motel that Glossip could have used to disprove the State's embezzlement motive theory, as well as key physical evidence from the crime scene that could have been tested for the first time, such as Mr. Van Treese's wallet which was never checked for fingerprints, and other evidence that could have been tested again with the benefit of advanced technology. This is a right provided to certain eligible individuals, like Glossip, by Oklahoma statute.

Except for former Assistant District Attorneys Fern Smith and Connie Smothermon, who both knew about the evidence destruction before Glossip's retrial and undertook no investigation or other action to remedy this due process violation, witnesses we interviewed from the Oklahoma City Police Department and the Oklahoma County District Attorney's office involved in the case expressed significant concern that evidence was destroyed in a capital murder case. For example:

- Detective Hogue found it "**concerning**" that an ADA told her to destroy a box of evidence in a case that was still ongoing, and that it was a "**problem.**"

- Detective Fiely (crime scene investigator on the Glossip case) said that having evidence in a homicide case that was just two years old “marked for destroy” was “some strong words.”
- Officer O’Leary (patrol officer who assisted on the Glossip case) said he was “**surprised**” and did not understand why the DA would say to destroy the evidence and “**It’s not the way it’s supposed to be done.**”
- Former ADA Garry Ackley (who co-prosecuted Glossip in his retrial) said the “**the Glossip deal horrifies me**” and he had no idea how something like this could happen.

The destruction of evidence was never adequately addressed by the District Attorney’s office, Glossip’s defense attorneys, or any court of law. We have located no evidence that any investigation was undertaken by the District Attorney’s Office to determine how this happened. The jury in Glossip’s trial never knew about the evidence destruction, and likely would have seen the case much differently had they known about it. The destruction of evidence issue, by itself, renders Glossip’s conviction unreliable as this is a fundamental due process violation that deprived Glossip of a fair trial.

II. Detective Bemo Engaged in Questionable Tactics Which Led to Sneed’s Unreliable Statements Implicating Glossip in Planning a Murder and Later Acknowledged there Likely was no Planned Murder but Just a Botched Robbery

Everyone has acknowledged, including members of the prosecution team that without Sneed’s testimony against Glossip there never would have been a murder conviction in this case. Sneed implicated Glossip as masterminding Mr. Van Treese’s killing, but only after being led there by Detective Bemo’s inappropriate interrogation tactics. It is telling that while Sneed was gone for an entire week after the murder and implicated himself to the owner of the roofing company he went to work for, he said nothing about Glossip. In fact, the owner of the roofing company indicated that he thought Sneed was referring to *other* individuals. These individuals were never questioned by police. It was only after Detective Bemo interjected his views that Sneed did not act alone, that Sneed could help himself, that Glossip was arrested, and that Glossip was blaming Sneed for the murder, that Sneed implicated Glossip and fingered Glossip as masterminding the murder. Indeed, within the first 20 minutes of Sneed’s interrogation, detectives mentioned

Glossip's name *six* times, and mentioned nobody else before Sneed confessed and pointed the finger at Glossip. All of this is consistent with the fact that the detectives on the case, particularly Detective Bemo, were convinced early on that Glossip participated in the murder as a principal and the actual mastermind. This tunnel vision contoured the entire investigation and was the focus of Sneed's interrogation.

Dr. Richard Leo, a leading expert in police interrogation practices, observed that the tactics used during Sneed's interrogation by Detectives Bemo and Cook demonstrated this tunnel vision, as the detectives sought to prove their hypothesis rather than find the truth. As Dr. Leo explained, "Detectives Bemo and Cook presumed the guilt of Richard Glossip in the murder of Mr. Van Treese and set out to prove it by pressuring and persuading Justin Sneed to name Richard Glossip as his accomplice and the mastermind of the homicide." Detective Bemo used several high-risk techniques contrary to eliciting truthful and reliable evidence. By mentioning Glossip early and often during the interrogation, Detective Bemo signaled to Sneed it was Glossip who should be implicated. Within the first 5 minutes, Glossip was mentioned, and before 20 minutes elapsed with Sneed, Glossip was mentioned 8 times.

No individual facing a first-degree murder charge would ignore this lifeline by police to implicate someone else. The jury never heard any of this information because the defense did not play Sneed's interrogation video for the jury, did not effectively cross-examine Bemo on his interrogation tactics, and did not call an expert like Dr. Leo to address Sneed's interrogation. Since Sneed's identification of Glossip as the mastermind—the critical and only evidence tying Glossip to the murder—originated from this contaminated interrogation, Sneed's testimony against Glossip at trial was equally tainted and unreliable.

What is also quite troubling about Detective Bemo's conduct is that it appears he may not have believed Sneed's story that this was an intentional murder for hire orchestrated by Glossip or later changed his views. In a 2017 interview, he stated that Sneed "ended up killing Barry, and didn't, I don't know that he intended to, but he did." Detective Bemo also said that the motive was robbery and that Sneed "probably got a little carried away because he was mad he got hit." These statements directly contradict the State's theory of the case that this was an intentional murder for hire that Glossip masterminded. If the jury had heard that the lead detective didn't

believe Sneed intended to kill Mr. Van Treese and the crime was just a robbery gone bad, then it is highly unlikely the jury would have convicted Glossip.

III. Problems with the Police Investigation Including the Loss of Evidence and the Failure to Interview Witnesses Cast Doubt on the Ultimate Outcome

Tunnel vision by the lead detectives permeated the investigation, as well as other deficiencies with the collection, processing, documentation, and maintenance of evidence. For example, the police collected a surveillance tape from the Sinclair Gas Station from the night of the murder, but the tape was never turned over to the defense and seemingly has disappeared. This tape purportedly would have shown information highly relevant to either corroborating or refuting Sneed's statements to police, like the exact time he came to the gas station, if he was with anyone, what he was wearing, etc. It would have shown whether Mr. Van Treese came to the gas station and when, among other valuable pieces of information. The police thought it was important enough to collect, but then it went missing and was never turned over to the defense despite requests going back to 1998. We have made open records requests to the DA's office for this tape, and we understand they are continuing to look for it and have even brought Assistant DA Gary Ackley out of retirement to conduct the search. To date, however, we have heard nothing.⁴

The police also failed to process fingerprints from obvious places and failed to fully photograph the \$23,100 and the envelopes containing the money found in the trunk of Mr. Van Treese's car. They also failed to investigate why money found in Mr. Van Treese's car trunk had blue dye which appeared to be bait money from a robbery. Not all items found in Mr. Van Treese's car were collected and logged as the police only collected what they considered of "particular evidentiary value" for them, without regard to what the defense might need. The police did not collect financial records and daily reports from the motel, even though the State claimed that embezzlement was Glossip's motive for killing Mr. Van Treese. The police even returned key evidence to Mr. Van Treese's family. For instance, by January 14, 1997—before

⁴ We also learned that the DA's office maintains at least 7 boxes of materials regarding the case that we have never seen despite our requests. These boxes may contain additional evidence material to the case.

Glossip even was charged with murder—the police gave back the \$23,100 found in Mr. Van Treese’s car, the envelopes containing the money and most of the other contents of the vehicle. The defense never had the chance to review this material which was never even catalogued or adequately photographed. Retired Master Sergeant O’Leary, an Evidence/Property Room Inspector for 10 years at the Oklahoma County Police Department, explained this was problematic, and he would not have released anything to anyone at that point in the investigation.

The police also failed to search and collect evidence from Sneed’s room at the motel, the motel office where important business records were maintained, and even failed to search Glossip’s room for evidence that he participated in the murder—or did not participate in the murder. This is puzzling considering that Sneed told police that both he and Glossip were in his room dividing up the money he obtained from Mr. Van Treese’s vehicle the night of the murder. There was also a shower curtain hanging on the window in room 102 where the murder occurred which came from a different room in the motel, yet the police never attempted to locate where it came from and process that other room for evidence. The police inaccurately testified at Glossip’s retrial that the shower curtain hanging over the window came from Room 102.

Finally, the police failed to investigate relevant witnesses, including witnesses at the motel around the time of the murder, Mr. Van Treese’s adult son who he spoke with the evening of the murder when he was onsite at the motel, individuals who Sneed was staying with immediately after the murder, and others familiar with Sneed and his character. They failed to interview other obvious witnesses and did little to no follow-up interviews with witnesses to clarify obvious inconsistencies in what they had been told. The police did not even interview Cliff Everhart who was a primary witness against Glossip at trial, or even Donna Van Treese who would have had critical information regarding Mr. Van Treese’s whereabouts the day of the murder and who provided critical testimony at trial regarding the now debunked embezzlement motive theory.⁵

⁵ The following list of individuals not interviewed by police is discussed more fully in the Report: (1) Donna Van Treese; (2) Cliff Everhart; (3) Marty Bender; (4) Derrick Van Treese (who spoke to his father hours before the murder and in the time frame Mr. Van Treese was at the Oklahoma City motel before leaving for Tulsa); (4) Cpl. Harold Wells; (5) Kenneth Van Treese; (6) Dudley Bowdon (the Van Treeses’ personal accountant who had intimate knowledge of the motel business and its financial troubles, Mr. Van Treese’s way of conducting business including

IV. Material Information Supporting Glossip's Innocence and Countering the State's Theories was Never Presented to the Jury

Substantial evidence countering the State's case that Glossip masterminded the murder and had motive for doing so was never presented to the jury. The State's case hinged on the credibility of Sneed's story that he took \$4,000 from Mr. Van Treese and split it equally with Glossip. The evidence from the State's own witnesses, however, demonstrates that Sneed lied; he could not have taken \$4,000 from Mr. Van Treese because Mr. Van Treese picked up no more than \$2,848.45 from the motel. Accordingly, Sneed could not have split \$4,000 with Glossip like he told police. Thus, the money that Glossip had on him on January 9, 1997 when exiting an attorney's office was not part of the money Sneed stole from Mr. Van Treese. This fact alone greatly undermines the State's case.

The State argued that Sneed was a meek puppet and would never have killed Mr. Van Treese without Glossip prodding him to do it. This false narrative permeated the case but is discredited by new facts uncovered in our investigation - evidence the jury never heard. The jury was never told that Sneed had a violent and troubled history going back to high school, he was prone to anger and violent outbursts, and had a criminal past including convictions for burglary, making bomb threats and passing "hot" checks. The jury also never heard about Sneed's pattern of blaming others for his own crimes, like he did with Glossip. Sneed blamed a girlfriend for "coercing" him to make a bomb threat, and friends for "coercing" him to commit burglary. The jury also never heard about Sneed's rampant substance abuse—he was a meth addict—and manipulated people for drugs and food and, when that didn't work, he was violent and stole to get what he needed. All of this undermines the State's primary theory behind Sneed's murder of Mr. Van Treese—that he only would do it because Glossip told him to. The evidence most likely supports that this was a robbery gone bad because Sneed needed money for drugs, but this was

carrying large amounts of cash in his vehicle); (7) Wes Taylor (Sneed's stepbrother who had discussed robbing the motel months earlier); (8) Jamie Spann (Sneed's school friend and fellow roofer who knew Sneed to be angry, violent and a drug user); (9) Kim Hooper/Gary Portnall; (10) Lois Gann; (11) David McWaters; (12) Paul Demonski; (13) Kathryn Kay Timmons; (14) All employees/guests/residents of OKC motel; (15) workers at strip club (including Stephanie Garcia); (16) Mark Brassfield; (17) Robert Brassfield, David Jackson/other roofing company personnel; (18) Employees of Tulsa motel.

never presented to the jury. It is unlikely that Sneed would commit murder to get money he needed for drugs only to then willingly give half of it away to someone who was not even involved in the actual killing. The jury also never heard about numerous discrepancies and later additions in Sneed's story over the years to accommodate new facts.

The jury importantly never heard that the State's motive theories were completely unsupported. Evidence uncovered in our investigation demonstrates that the State's principal motive theory—that Glossip was stealing and killed Mr. Van Treese to avoid being fired—is not viable. This theory was based on shortage calculations proffered by the State without any underlying financial records (as those were destroyed by the State in 1999 before Glossip's retrial). The calculations and testimony offered do not in fact establish any embezzlement by Glossip. Further, at the same time the State claimed that Glossip was stealing based on monthly reports showing "shortages," Mr. Van Treese curiously paid Glossip bonuses each month based on his favorable performance. Mr. Van Treese's own brother also contradicted this theory by testifying that these purported "shortages" were immaterial and would not have caused Mr. Van Treese to act against Glossip.

The idea that there were shortages due to Glossip's embezzlement is further discredited by facts uncovered by this investigation regarding Mr. Van Treese's business practices. The Best Budget Inn operated almost entirely in cash, and Mr. Van Treese did not deposit cash receipts from the Oklahoma City motel in a bank. Instead, according to his own personal accountant (CPA) who was never interviewed by police or the defense, Mr. Van Treese banked out of the trunk of his car. In addition, according to the CPA and court documents obtained by the investigation, Mr. Van Treese had been in trouble with the Internal Revenue Service and Oklahoma State taxing authorities for years and owed substantial sums on various properties. Mr. Van Treese even lost his motel in Weatherford in a foreclosure case. He testified during that case about his business practices, including not using banks and paying employees with cashier's checks from the Circle K. The jury heard none of this evidence uncovered in our investigation which severely undermines the notion that cash shortages were due to Glossip's embezzlement as opposed to Mr. Van Treese's business practices. Further, as discussed above, financial records that would have

helped Glossip definitively disprove the State's motive theory were destroyed at the DA's behest *before trial* and other records were simply never collected by the police.

This same evidence regarding Mr. Van Treese's financial troubles also discredits that the State's alternative motive theory; that Glossip killed Mr. Van Treese because he was not properly maintaining the motel. The evidence shows that Mr. Van Treese simply did not have the money to put towards maintaining the motel and that his other motels were in worse condition. Specifically, other witnesses the jury never heard from confirmed that Mr. Van Treese's motels were known for being in a state of disrepair and were known for illegal drug activity and other illegal conduct, such as prostitution, robberies and auto burglaries. Mr. Van Treese was aware of these activities and did not devote the resources needed to clean up and maintain his properties. None of this had anything to do with Glossip's management.

The jury also never heard evidence that discredits the testimony of Cliff Everhart, one of the State's key corroboration witnesses against Glossip. At the time he testified at trial, Everhart had been charged with several crimes, including willful neglect of duty and making false statements, but the jury never heard about this. Everhart later pled guilty and served time in state prison. In addition, Everhart had a reputation for lack of candor and credibility, as well as lack of professionalism and conflicts of interest. These newly uncovered facts undermine the reliability and credibility of Everhart's testimony, which was used by the State to corroborate Sneed's testimony that Glossip was involved in the murder.

V. The State's Flimsy Corroboration Evidence was Bolstered by Improper and Misleading Jury Instructions that Did Not Follow Oklahoma Statutory Requirements

The only evidence that Glossip masterminded the murder came from Sneed, the actual killer. Oklahoma courts evaluating the Glossip case have noted this and that the evidence against Glossip was not particularly strong. Under Oklahoma law, however, the testimony of an accomplice *must be* corroborated by independent evidence that the defendant committed the crime. The State Attorney General's Office has lauded this corroboration requirement as an important and additional protection that it is not afforded under federal law.

Oklahoma law specifically mandates that the jury “must” be able to eliminate the testimony of an accomplice and still find some separate evidence independently connecting the defendant to the commission of the crime. The jury thus is required to be instructed properly to undertake this required analysis and was not in this case. The improper jury instruction given to the Glossip jury (which the prosecution exacerbated in closing arguments) caused the jury to misunderstand Oklahoma law and elevate inadequate corroboration evidence to pass the test when in fact it was not sufficient.

Based on interviews, the jury in Glossip’s retrial could not separate Sneed’s statements implicating Glossip nor could they articulate any independent corroboration connecting Glossip to the murder as required under Oklahoma law. The “corroboration evidence” presented by the State against Glossip focused on Glossip’s conduct after the murder, much of it contested, which, at best, following Oklahoma law (*Cummings v. State*) could only support a possible accessory after the fact charge. This issue was not raised on appeal by Glossip’s defense counsel or briefed before the Court of Criminal Appeals.

VI. Conclusion

We conclude that no reasonable juror, hearing the complete record and the uncovered facts in our Report, would have convicted Richard Glossip of capital murder.