

**IN THE CIRCUIT COURT
FOR BALTIMORE CITY, MARYLAND**

ADNAN SYED,
Petitioner,

v.

STATE OF MARYLAND,
Respondent

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Petition No. 10432

Original Case Nos. 199103042-46

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CRIMINAL DIVISION

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CIRCUIT COURT FOR
BALTIMORE CITY

MOTION TO SUPPLEMENT RECORD

Petitioner Adnan Syed, by and through counsel, C. Justin Brown, Brown & Nieto, LLC, hereby moves this Honorable Court to supplement the post-conviction record with the post-hearing letters that the State and Professor Michael Millemann submitted to the Court. In support of this Motion, Petitioner states the following:

1. On February 9, 2016, the Court completed a five-day, re-opened post-conviction hearing, during which Petitioner presented two issues: (1) that trial counsel was constitutionally ineffective for failure to contact or investigate an alibi witness; and (2) that cell tower evidence of incoming phone calls was improperly admitted at trial, either as a result of ineffective assistance of counsel, or because the State committed a *Brady* violation.

2. At the hearing, the State theorized that Syed's "defense team" had made a strategic decision not to contact the alibi witness Asia McClain. Part of this "team," the State theorized, was Michael Millemann, a professor at the University of Maryland School of Law. The State argued this theory in opening statement, in the cross-

examination of a witness for the Petitioner, and in closing arguments. No witness, however, testified in support of this theory.

3. Shortly after the hearing, Professor Millemann learned of how his name had been used in the State's case. He was surprised to hear this because his only involvement with the case had been as conflict counsel. Specifically, when the State had tried to strike Gutierrez from the case by arguing that she had a conflict of interest, Millemann represented Syed for that limited purpose. Millemann had no other involvement with the case. He neither investigated Asia McClain nor pursued any other part of the case.

4. Millemann was also surprised to learn how his name had been used during the hearing because the State had never attempted to contact him prior to the hearing to inquire about his actual role in the case.

5. Upon learning how his name came up at the post-conviction hearing, Millemann contacted undersigned counsel to verify what he had heard. He also contacted the State for the same purpose.

6. The State then took the initiative of mailing a letter to the Court in response to Millemann's inquiry. Exhibit 1 (Vignarajah letter).

7. Upon receiving the State's letter, Millemann sent the Court a responsive letter to, among other things, clarify his role in the case and clarify how he became aware of the use of his name in the case. Exhibit 2 (Millemann letter).

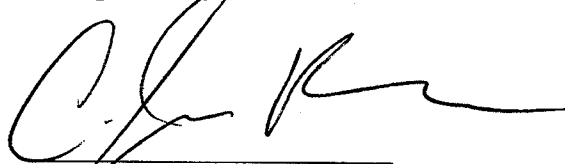
8. Both letters should be made part of the record because they correct factual representations made at the hearing that are relevant and material to issues raised in the

post-conviction proceeding, and this Court has an inherent interest in getting to the truth of the matter.

9. The letters should also be included in the record in the event this matter is appealed to the Court of Special Appeals.

WHEREFORE, Petitioner respectfully requests that this Court grant this Motion and supplement the record in this case to include the post-hearing letters submitted to the Court by the State and Professor Millemann.

Respectfully Submitted,

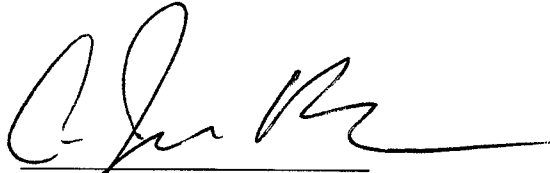
A handwritten signature in black ink, appearing to read 'C. Justin Brown', written over a horizontal line.

C. Justin Brown
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of March, 2016, a copy of the foregoing was mailed to the following:

Thiru Vignarajah
Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202



C. Justin Brown