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COURT OF COMMON PLEAS  
CRIMINAL DIVISION  
HAMILTON COUNTY, OHIO

*wcc*  
HON. WENDE C. CROSS

STATE OF OHIO,

Plaintiff,

v.

ELWOOD H. JONES, JR.

Defendant.

: CASE NO. B95-08578

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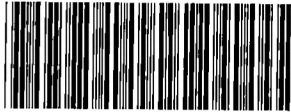
: Judge Wendé Cross

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: DECISION AND ENTRY GRANTING

: DELAYED MOTION FOR NEW

TRIAL; NOTICE OF HEARING



D136940352

This matter comes before the Court on the Defendant's Delayed Motion for New Trial pursuant to Ohio Rule of Criminal Procedure 33, filed on February 25, 2019. Upon consideration of the motion, responsive memoranda, evidence presented at the hearing held on August 24, 25 & 26, 2022, and arguments of the parties, the Court finds said motion well taken and a new trial is hereby **GRANTED** for reasons stated herein.

**I. FACTUAL BACKGROUND**

On September 3, 1994, Rhoda Nathan was attacked in room 237 of the Embassy Suites Hotel in Blue Ash, Ohio. Nathan had been staying at the hotel with her friend, Elaine Schub, and Schub's fiancé, Joe Kaplan, while in town from New Jersey to attend a bar mitzvah. *State v. Jones*, 90 Ohio St. 3d 403 (2000). On the morning of September 3<sup>rd</sup>, Rhoda Nathan, Ms. Schub and Mr. Kaplan woke and prepared to eat breakfast in the hotel's first floor restaurant. Schub and Kaplan left the room at approximately 7:30 a.m. while Ms. Nathan stayed in the room to shower and get dressed. Schub and Kaplan returned to room 237 approximately 30-40 minutes later. (Trial Tr.

Vol. XXV, Joe Kaplan Video Dep., at 11) When they opened the door, they discovered Nathan unresponsive, lying naked and face-up on the floor. *Jones*, 90 Ohio St. 3d at 403.

Schub began to scream and numerous staff and guests responded to the commotion. A hotel guest who was a doctor and two guests who were nurses rendered aid until paramedics arrived. *Id.* Nathan was transported to Bethesda North Hospital, where she was pronounced dead. Initially, Nathan was thought to have suffered a heart attack and injured herself in a fall. However, after determining that she had suffered multiple traumatic injuries and blunt force impact to her head and torso, the Hamilton County Coroner's office classified the death as a homicide. *Id.* at 404.

An investigation ensued by the Blue Ash Police Department (hereinafter "BAPD"). A detective testified that he found a pendant resembling the victim's in a search of a toolbox in the trunk of Elwood Jones's car on September 14, 1994. (Trial Tr. 1219) On September 27, 1995, more than one year later, police arrested Elwood Jones for Rhoda Nathan's murder. Jones was subsequently tried, convicted, and sentenced to death in 1997 based on the investigation of the Blue Ash Police Department and evidence presented at trial by the State of Ohio.

For approximately 27 years, Jones has consistently maintained his innocence and claimed that his November 1996 trial was fundamentally flawed.

## I. TRIAL PROCEEDINGS

Following a jury trial in November 1996, Jones was convicted of Aggravated Murder and Aggravated Burglary. The identity of the perpetrator of Rhoda Nathan's murder was the central issue at trial. The State's theory of the case was that (1) Elwood Jones murdered Ms. Nathan and gashed his hand during the bloody beating of her in room 237 of the Embassy Suites hotel; (2) the bacterial infection Jones had in his hand in September 1994 could *only* have been caused by a