

process and the ability to present a defense in violation of his rights under U.S. CONST. AMEND. V & XIV. It was error to allow the witness to make these conclusions about DNA results that were not in evidence, and it was even more gross an error for the defense to adopt those conclusions to the detriment of Applicant. Such error meets both prongs of **Strickland**, *supra*. as set forth in the preceding issues.

### **CLAIM FOR RELIEF NUMBER ELEVEN**

**APPLICANT WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY U.S. CONST. AMEND VI, AND DUE PROCESS OF LAW AS GUARANTEED BY U.S. CONST. AMEND. V & XIV BY COUNSEL'S FAILURE TO OBJECT TO THE FOLLOWING INADMISSIBLE TESTIMONY.**

The next witness called by the State was the mother of Michelle Shadbolt. This witness, Jacqueline Barrett, was asked to identify Jack Shadbolt as he was brought into the courtroom. The State, then wanted to make the most of this event by preferring inadmissible statements from the mother of the deceased that would serve to clear Jack Shadbolt, and convict Applicant.

By the State: Why did you start crying when you saw him (Jack Shadbolt), Miss Barrett?

By Ms. Barrett: Just brings back the memories.

By the State: For a lot of years did you think Jack was the one who killed Michelle?

By Ms. Barrett: Everybody told me that and I wanted - - didn't want to believe it.

By the State: Why didn't you want to believe it?

By Ms. Barrett: I just didn't -- I knew he loved her and I just didn't think he could do that."  
(RR19, 102,103)

Then after establishing that Ms. Masters lived in Nacogdoches, Texas (RR19, 104) at the time of the murder of Michelle Shadbolt, and that she only talked to Michelle Shadbolt on the phone two or three times a week during the separation of she and Jack. She then asked her this obvious hearsay question, that would never be tested by cross examination of the affiant.

By the State: "During the time that Michelle was separated did she tell you of any interests she had in dating any other men?"

By Ms. Masters: No." (RR19, 104)

Obviously, the defense had not yet subscribed to the position that Jack cannot be cleared from this murder, and that there has to be an exonerating explanation for Applicant's DNA being found inside Michelle Shadbolt. Michelle Shadbolt is obviously dead at this point, and when the State began by openly asking the question of what did she tell you when she was alive, the defense should have immediately objected that the response had to be hearsay and denied Applicant's right to confront and cross-examine his accusers. She should also not have been allowed to give an opinion that in her mind Jack couldn't have done this. By allowing this witness to make these statements to the jury, without objecting as set forth herein, denied Applicant's right to effective assistance of counsel as guaranteed by U.S.