STATE OF CONNECTICUT
GEOGRAPHICAL AREA NO. 19 AT ROCKVILLE

STATE OF CONNECTICUT
SUPERIOR COURT
G.A. 19
2024 SEP 13 P 3:47

MICHELLE TROCONIS

V.

COMMISSIONER OF CORRECTION SEPTEMBER 11, 2024

PETITION FOR A WRIT OF HABEAS CORPUS

NATURE OF THE PROCEEDINGS

(1) This case is a habeas corpus proceeding brought pursuant to Conn. Gen. Stat. §§ 52-466 and 52-470.

(2) The petitioner challenges the judgments of conviction in *State of Connecticut v. Michelle Troconis*, obtained in one trial, initiated under three docket numbers FST-CR19-0167364-T, FST-CR20-0241178-T, and the docket under which the petitioner was tried, FST-CR20-0241178-T.

(3) The petitioner was convicted in the Superior Court, Judicial District of Stamford at Stamford On March 1, 2024, after a jury trial before *Randolph, J.*, and found guilty of conspiracy to commit murder, in violation of Conn. Gen. Stat. §§ 53a-48 & 53a-54a; conspiracy to commit tampering with physical evidence, in violation of Conn. Gen. Stat. §§ 53a-48 & 53a-155; two counts of tampering with physical evidence in violation of Conn. Gen. Stat. § 53a-155; and, hindering prosecution in the second degree, in violation of Conn. Gen. Stat. § 53a-166.

(4) The petitioner is in custody pursuant to the Judgment entered on May 31, 2024, when the court, *Randolph, J.*, sentenced the petitioner to a total effective sentence of twenty years of incarceration, execution suspended after fourteen and a half years, followed by five years' probation.

(5) The claims in this case concern the petitioner being deprived of her right to the effective assistance of counsel pursuant to the Sixth and Fourteenth Amendments to the Constitution of the United States and under Article First, §§ 8 and 9, of the Connecticut Constitution.

(6) The criminal trial court ruled the claims in this case could not be presented in the trial court. The claims raised herein cannot be raised in the petitioner's pending appeal pursuant to *State v. Leecan*, 198 Conn. 517, 541, 504 A.2d 480 (1986), where the trial court expressly denied the petitioner a full evidentiary hearing to develop and prove the matters pleaded herein, directing her to do so by way of a petition for the writ of habeas corpus.

(7) The issues raised herein do not concern the petitioner's trial counsel but, rather, trial counsel's predecessor—who had no part in the eventual trial of the case.

INTRODUCTION

(8) The petitioner was prosecuted for conspiring with Fotis Dulos to murder his wife, Jennifer Dulos and with helping Fotis dispose of and prevent the police from obtaining evidence to prove facts surrounding the death of the victim.

(9) The petitioner is the only person thus far tried in connection with the disappearance and presumed death of Jennifer Dulos. The victim's husband committed suicide after he was arrested but before he could be held to trial.

(10) The claims herein concern a counsel who was initially engaged by Fotis Dulos to represent the petitioner and who caused and allowed the petitioner to talk to law enforcement and prosecuting officials without protecting the petitioner's constitutional rights or her interests.

FACTS AND PROCEDURAL HISTORY

(11) In 2016, the petitioner lived in Miami, Florida with her daughter and near her parents, in a condominium she owned with her former husband.

(12) The petitioner prioritized raising her daughter including supporting her daughter's ambition to become an Olympic skier. The petitioner travelled with her daughter inside the U.S. and abroad to provide her daughter support during her rigorous training and competition schedule. The petitioner provided the schooling and academic supports to allow her daughter to remain on track with her peers when she was able to attend school in person.

(13) The petitioner had begun working on a plan to move to Colorado full time to support her daughter's advancing in her training and competition.

(14) On April 23, 2016, the petitioner met Fotis Dulos at the Greater Miami Ski Club, a private, family-oriented water-skiing club located in Doral, Florida.

(15) Fotis began to frequent that club, where they socialized when he came to the Miami area. When the petitioner met him, Fotis Dulos was with the woman who was his girlfriend, Elena G.

(16) The petitioner soon heard from Fotis that he was separated from his wife, Jennifer, and had been separated for approximately five years. He told the petitioner that Elena was not his girlfriend and that he and Jennifer lived

separately in the same 15,000 square foot family home. Fotis informed the petitioner that, in order to maintain stability for their five children, Fotis had separate living quarters on the third floor of the residence.

(17) On or about June 10, 2016, the petitioner and her daughter first met Fotis's children when he brought them to the Greater Miami Ski Club. Fotis courted the petitioner and the two grew closer through the second half of 2016. The petitioner's daughter became friends with the Dulos children.

(18) Fotis portrayed himself as a devoted, loving father and a successful businessman. Fotis eventually convinced the petitioner to move to Connecticut instead of moving to Colorado.

(19) In December 2016, when the Dulos parents and children were on a ski vacation in Colorado, Fotis alerted the petitioner who then saw postings by Jennifer Dulos on social media from which the petitioner understood Fotis and Jennifer were not separated. The petitioner blocked Fotis on social media. Fotis continued to text the petitioner to convince her to go forward with making their relationship official.

(20) The petitioner spent January to the end of February or beginning of March 2017 in Colorado with her daughter, who was training and competing in downhill and other competitive snow skiing events. As part of her plan to move to Colorado, the petitioner registered her daughter for school in Vail, where she had been accepted to the training program at Ski Club Vail.

(21) When the petitioner returned to Miami in late February or early March of 2017, she saw Fotis and his children, meeting the children's nanny who was with them.

(22) While Fotis was in Miami, Fotis told the petitioner that he and Jennifer had

agreed to divorce and that the children and Jennifer were moving to New Canaan, Connecticut. Fotis asked the petitioner to not mention this to his children because he and Jennifer had agreed to delay telling the children they were divorcing until after the end of their school year.

(23) Fotis provided the petitioner with documents to confirm the plans for Jennifer and the children to move to New Canaan. Fotis also was clear that the separation had already occurred and that the two of them—Jennifer and Fotis—were living separate lives. Fotis wanted the petitioner to accept him back, to become his girlfriend, and move to Connecticut.

(24) The petitioner was again convinced by Fotis to move to Connecticut instead of moving to Colorado.

(25) The petitioner saw Fotis at the ski club in Miami every few weeks and did not observe anything to make her doubt that Fotis was accurately describing his separation from Jennifer.

(26) In June 2017, Jennifer and the children moved out of the Farmington house and subsequently moved into a house in New Canaan.

(27) The petitioner came to Connecticut to stay with Fotis in the house at 4 Jefferson Crossing in Farmington, on September 9, 2017. After spending the summer with her father in Argentina, the petitioner's daughter joined her and began school in Connecticut in the fall of 2017.

(28) Despite being convinced by Fotis to come and stay with him in Connecticut, the petitioner did not sever her personal or economic ties to Miami, Florida and Vail, Colorado. The petitioner did not obtain a Connecticut driver's license when she

came to Connecticut, nor did she change her banking provider.

(29) In 2017 through all of 2018, the petitioner maintained her usual schedule of activities and travel. This included when she and her daughter spent months in Colorado for the daughter's ski training and competitions. They spent time in Vermont for the ski training and competitions. When her daughter was in Argentina with her father, training and participating in skiing competitions during her summer school break, the petitioner went there, as well.

(30) In 2018, the petitioner travelled a number of times to Miami, usually with her daughter, to spend time with family. The petitioner continued to take steps to start her own small business, which she eventually registered in Miami, and to build a clientele for her sales, in Colorado.

(31) The petitioner travelled domestically and internationally to engage in income-producing business activities for the present and future. The petitioner did not receive any monetary support from Fotis during their relationship.

(32) When the petitioner first came to Connecticut, it appeared to the petitioner, from what she heard from Fotis, that things were cordial between Fotis and Jennifer.

(33) The petitioner never met Jennifer other than a single interaction where both Jennifer and the petitioner were in their respective vehicles and the petitioner drove past Jennifer.

(34) In 2017 and 2018, the petitioner was consistently told by Fotis, by his lawyer, and other professionals involved in the divorce proceedings, that things were going well, and the divorce was proceeding toward a peaceful resolution. Fotis provided the petitioner with little to no details of the divorce proceedings.

(35) In 2018, the petitioner became aware that the divorce was more contentious than Fotis had previously indicated; as the hostility in the divorce proceedings began to intensify, petitioner began to learn the true situation. Fotis told the petitioner he was going to court for the divorce multiple times during the week.

(36) At one point in the autumn of 2018, the petitioner returned from a trip to learn from Fotis that he was not allowed to see his children except on supervised visits either with a professional present, or in a public place. Despite his apparent distress, Fotis continued to tell the petitioner that things were heading towards a positive resolution—including fully shared custody of the children—in the divorce.

(37) The petitioner's daughter was disappointed and sometimes lonely during the period of time that Fotis's access to the children was restricted, having expected that the move to Connecticut would mean she would get to spend time with Fotis's children to whom she felt close from their time together in Miami.

(38) Having decided to resume her plan to move to Colorado, in September 2018, the petitioner listed for sale the Miami condo she owned with her ex-husband. The petitioner's Miami condo sold in October 2018.

(39) With the assistance of an agent, the petitioner searched for and found a condominium in Vail, CO, that was purchased on November 9, 2019.

(40) During a trip to Miami in mid-December 2018, the petitioner solidified the viability of her business plan for Colorado in a meeting with the wholesaler of goods she would be selling.

(41) In January 2019, the petitioner and her daughter went to Colorado for the daughter's three-month ski training and competition season.

(42) Also in January 2019, the petitioner informed Fotis that she was going to move with her daughter to Colorado to pursue her daughter's skiing career full time, at the end of her school year.

(43) The petitioner's decision to leave Connecticut was based on her experience that Fotis's divorce was not as he had represented it would be and the petitioner felt her life in Connecticut was not as Fotis had promised the petitioner it would be when she agreed to move here and be his girlfriend.

(44) When Fotis visited the petitioner in Colorado in March 2019, the petitioner discovered that he was texting with another woman.

(45) In April 2019, Fotis, the lawyers, and other professionals appointed by the court involved in the divorce proceedings had expressed to the petitioner that the proceedings were going well for Fotis and that the proceeding was headed to a favorable resolution for Fotis.

(46) Starting in April 2019, the petitioner was provided with extensive information from Fotis, his lawyers, and professionals involved as experts in the Dulos divorce litigation, some of which cast Jennifer in a negative light.

(47) The information that the petitioner had been provided about Jennifer through discussions of the divorce proceedings included information:

(A) about a court ordered psychiatric evaluation of Jennifer,

(B) about a prior incident where Jennifer had disappeared abruptly after having a dispute with her family in the late 1990s that resulted in Jennifer not communicating with her family for four years extending into the early 2000s, shortly before Jennifer met Fotis;

(C) about Jennifer temporarily changing her name and involving herself with Scientology;

(D) about an incident the day after Father's Day 2017 when Jennifer had abruptly cut off contact with Fotis and took the children with her to New York City;

(E) and other assorted information that led the petitioner to believe that Jennifer was prone to unusual behavior.

(48) On May 24, 2019, at approximately 7 P.M. Jennifer was reported missing.

(49) During a subsequent check of Jennifer's New Canaan residence on the evening of May 24, 2019, law enforcement discovered evidence to suggest that foul play had been involved in the disappearance of Jennifer.

(50) At around 8:30 p.m. on May 24, 2019, police officers came to the Farmington home at 4 Jefferson Crossing and spoke to Fotis.

(51) After police left 4 Jefferson, Fotis informed the petitioner that police had just informed Fotis that Jennifer was reported missing.

(52) During this conversation Fotis implied that this was likely another example of Jennifer behaving unusually, as the petitioner had been told she did in the past.

(53) Believing what she had been told about Jennifer by Fotis and others, the petitioner did not at first think that Jennifer was dead or that Fotis could be responsible for any foul play; she relied on Fotis's assurances that Jennifer had behaved similarly in the past.

(54) As Jennifer's estranged husband, Fotis was quickly identified by law enforcement as a person of interest in her disappearance.

(55) The petitioner became known to law enforcement as the girlfriend of Fotis early on in the investigation.

(56) Police seized Fotis's cell phone on May 25, 2019.

(57) On May 25, 2019, an attorney who otherwise represented Fotis recommended Attorney Andrew Bowman to Fotis as a criminal defense attorney.

(58) When, on May 28, 2019, Fotis told the petitioner that he had arranged for her to meet with an attorney, the petitioner expressed confusion about the need for such a meeting. The petitioner had no reason to believe she would need a criminal defense attorney. Fotis insisted that his attorney had told him that he, the petitioner and Pawel Gumienny all needed criminal defense counsel.

(59) Fotis arranged for the petitioner to meet with Bowman on May 29, 2019, about representing her in regard to the police investigation into the disappearance of Jennifer.

(60) On May 29, 2019, Fotis met privately with Attorney Bowman, before the petitioner met with Bowman. Fotis privately provided Bowman $5,000.00 to secure his services in representing the petitioner. Bowman later returned to Fotis his check from this meeting.

(61) During the petitioner's initial meeting with Bowman, the conversation was general; Bowman did not seek in-depth information from the petitioner. When Bowman inquired about the petitioner's activities on May 24th, the petitioner gave Bowman a timeline she had drafted in response to a May 25th request from Fotis's attorney, Jacob Pyetranker, to write down what she did on the morning and early afternoon of May 24, 2019.

(62) At their initial meeting, Bowman requested and the petitioner provided him a timeline of her phone calls on May 24, 2019.

(63) On May 31, 2019, Connecticut State Police escorted the petitioner and Fotis as they drove from 4 Jefferson Crossing in Farmington to CSP Western District Headquarters / Troop L in Litchfield, for purposes of executing a search warrant of the person of the petitioner.

(64) The petitioner was initially arrested on June 1, 2019, and charged in *State of Connecticut v. Michelle Troconis*, S20N-CR19-0148553-S, with tampering with evidence and hindering prosecution related to the disappearance of Jennifer.

(65) The police arrested the petitioner on June 1, 2019, at the Residence Inn Hotel in Avon. On the ride to New Canaan in a police vehicle, Connecticut State Police Sgt. Hazen was speaking to the petitioner, encouraging her to waive her right to an attorney and talk. The petitioner told Hazen that she would talk to them, but only if she could have her attorney.

(66) Hazen made a phone call during the ride indicating to someone that the petitioner did not want to talk to them; Hazen later testified that he did not remember who was on the other side of the call.

(67) The petitioner arrived at New Canaan police headquarters shortly after midnight, on June 2, 2019.

(68) In the early hours of June 2, 2019, the petitioner attempted to call Attorney Bowman but was unable to reach him.

(69) Attorney Bowman came to New Canaan Police Department headquarters on the morning of June 2, 2019, and spoke briefly with the petitioner.

(70) During brief discussions between the petitioner and Bowman shortly after the petitioner's arrest, Bowman relayed to the petitioner threats that had been made by State's Attorney Richard Colangelo that if the petitioner did not speak with police about Jennifer's disappearance, the petitioner would be charged with accessory to murder and would never see her child again.

(71) At the time of these discussions, Bowman had not obtained and had not read the arrest warrant affidavit that was the basis for the petitioner's arrest, and therefore did not learn important details that were necessary to properly advising and representing the petitioner.

(72) Bowman provided no meaningful professional advice to the petitioner about whether to talk to the police including, advice about the potential downside of speaking to police, the plausibility of Colangelo's threats and whether the State would be able to successfully prosecute the petitioner if she did not speak to the police.

(73) Bowman's insistence that the petitioner speak to the police about Jennifer's disappearance came without any explicit written agreement in place with the State either in the form of a proffer agreement or a cooperation agreement.

(74) Bowman made no attempt to gauge the State's level of interest in the limited information that the petitioner had, in part because Bowman had not discussed what information the petitioner had about the disappearance of Jennifer.

(75) Bowman made no attempt to gather information from the petitioner that was centrally relevant to understanding the petitioner's state of mind at the time of Jennifer's disappearance and in the days that followed, including at the time of

her arrest.

(76) Specifically, Bowman did not learn from the petitioner the significant amount of information – and misinformation – that Fotis had provided to the petitioner about Jennifer, her past behavior, and the outlook of the pending divorce proceedings.

(77) This information would have allowed Attorney Bowman to advocate for the petitioner during the police interview that took place on June 2, 2019 at his insistence, in that it would have explained the petitioner's lack of immediate suspicion toward Fotis and lack of immediate concern that Jennifer may have been harmed, and the petitioner's lack of memory about details of the time around Jennifer's disappearance that law enforcement believed that the petitioner should have been able to remember.

(78) This information would have also allowed Bowman to advocate for the petitioner in that it would have allowed him to understand the degree to which Fotis had manipulated the petitioner.

(79) Understanding this information about the petitioner would have permitted counsel to advocate for the petitioner to demonstrate that the petitioner had no animus towards Jennifer; that the petitioner had a pre-existing life plan in place that would allow her to leave Fotis, leave Connecticut and move to Colorado. It would demonstrate that the petitioner had been misled by Fotis about his family circumstances and was not going to stay with him.

(80) Beginning at 2:30 p.m. on June 2, 2019, and lasting for approximately 5 hours, the petitioner spoke with Detectives John Kimball and Corey Clabby in the presence of Attorney Bowman at the New Canaan Police Department.

(81) At the time of this interview:

(A) the petitioner had not discussed her life or the case in detail with Attorney Bowman;

(B) the petitioner had not slept in more than 24 hours, and had not eaten regular food in more than 12 hours;

(C) the petitioner was unaware of the nature of the allegations being made by the State in the pending case;

(D) the petitioner was not familiar with the criminal justice system; and

(E) the petitioner spoke English as a second language and while she was able to communicate in English, she was not comfortable speaking in English about important matters that would be subject to scrutiny.

(82) Bowman did not meaningfully advocate for the petitioner during the June 2, 2019, interview, and at times joined the efforts of law enforcement in pressuring the petitioner to provide additional information that the petitioner insisted that she did not have.

(83) The petitioner made reference to the timelines that she had drafted on May 25, 2019, at the request of Fotis's lawyer and provided to Bowman at the May 29, 2019, meeting.

(84) Bowman did not produce those timelines during the June 2, 2019, interview.

(85) The police discovered copies of the petitioner's timeline at 4 Jefferson on June 3, 2019, and these timelines would become incorrectly but prejudicially known by the State as the "alibi script" but in truth these were the timelines drafted at the request of Fotis's attorney that the petitioner had provided to Bowman and

referenced during the June 2, 2019 interview.

(86) After the first interview, Bowman made representations to the petitioner about his conversations with Colangelo and Colangelo's desire to use the petitioner as a witness against Fotis.

(87) Bowman made no reasonable effort to understand or assess the pertinent information about the petitioner's relationship with Fotis and her understanding of the proceedings involving Jennifer, before advising the petitioner whether to continue speaking with the police about Jennifer's disappearance.

(88) Bowman advised the petitioner to continue speaking with law enforcement without clearly advising the petitioner about the potential pitfalls of sitting with law enforcement for additional interviews.

(89) The petitioner agreed, based upon Bowman's representations about Colangelo's desire for the petitioner to be a witness for the State, to speak with the police again on June 6, 2019.

(90) Members of law enforcement and the prosecuting authority had indicated to Bowman that the police did not believe that the petitioner had told the truth during the June 2, 2019, interview.

(91) Bowman did not inform the petitioner that the police believed that she had been untruthful during the June 2, 2019, interview.

(92) Despite those indications from law enforcement and the prosecuting authority that they did not believe the petitioner, Bowman still advised the petitioner that it was appropriate to speak to the police again, even without any formal agreement in place.

(93) Bowman did not meaningfully advocate for the petitioner during the June 6, 2019, interview. The deficiencies included:

(A) counsel left the room while the petitioner was being questioned

B) and at times joined the efforts of law enforcement in pressuring the petitioner to provide additional information that the petitioner insisted that she did not have.

(94) During the June 6, 2019, interview the petitioner indicated to police that she had given Bowman the timeline previously and Bowman simply looked at his paper file and did not produce the document.

(95) The petitioner sat for a third and final interview with the police on August 13, 2019, again without any protection or guidance from Bowman nor with any explicit protections agreed to by law enforcement and/or prosecuting officials, related to speaking to the police again.

(96) On September 5, 2019, the petitioner was arrested in a second matter, *State of Connecticut v. Michelle Troconis*, FST-CR19-0167364-T, and charged with tampering with evidence.

(97) On January 6, 2020, the petitioner was charged in a third matter, *State of Connecticut v. Michelle Troconis,* FST-CR20-0241178-T, on the charge of conspiracy to commit murder.

(98) On March 19, 2021, *Blawie, J.*, granted the State's motion for joinder of the three matters, with the controlling file remaining as *State of Connecticut v. Michelle Troconis,* FST-CR20-0241178-T.

(99) On October 5, 2023, the State filed a long form Information charging the

petitioner with:

(A) conspiracy to commit murder;

(B) conspiracy to commit tampering with physical evidence;

(C) tampering with physical evidence;

(D) conspiracy to commit tampering with physical evidence;

(E) tampering with physical evidence;

(F) hindering prosecution in the second degree.

(100) The petitioner's trial counsel, Jon Schoenhorn, filed a motion to suppress the petitioner's statements to police, claiming, *inter alia*, that the interviews with the petitioner should be suppressed because they came as the result of the denial of the effective assistance of counsel.

(101) The State objected to the petitioner's pursuit of issues of ineffective assistance of counsel being litigated through a motion to suppress on the basis that since Bowman was not an agent of the State and therefore his actions could not be a basis for suppression.

(102) At the hearing on the petitioner's motion to suppress her statements, the trial court declined to address the petitioner's claim that the statements should be suppressed due to Bowman's deficient performance and the fact that Bowman had abandoned the petitioner such that she was denied any meaningful representation during the interrogations.

(103) The trial court denied the petitioner a full and fair hearing and declined to adjudicate the claims raised in this petition, ruling that they could and should be addressed by way of Writ of Habeas Corpus

(104) On March 1, 2024, after a jury trial before *Randolph, J.*, a jury found the petitioner guilty of:

(A) conspiracy to commit murder, in violation of Conn. Gen. Stat. §§ 53a-48 & 53a-54a;

(B) conspiracy to commit tampering with physical evidence, in violation of Conn. Gen. Stat. §§ 53a-48 & 53a-155;

(C) two counts of tampering with physical evidence in violation of Conn. Gen. Stat. § 53a-155; and,

(D) hindering prosecution in the second degree, in violation of Conn. Gen. Stat. 53a-166.

(105) On May 31, 2024, the court, *Randolph, J.*, sentenced the petitioner to a total effective sentence of twenty years of incarceration, execution suspended after fourteen and a half years, followed by five years' probation.

(106) On June 20, 2024, the petitioner appealed from the judgment in *State of Connecticut v. Michelle Troconis*, FST-CR20-0241178-T to the Connecticut Appellate Court, where it was docketed as *State of Connecticut v. Michelle Troconis*, AC 47734, and remains pending.

CLAIM ONE: THE PETITIONER'S CONSTITUTIONAL RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL WAS VIOLATED IN CONNECTION WITH THE WAIVER OF HER CONSTITUTIONAL RIGHTS

(107) Paragraphs (1) through (106) of this petition for a writ of habeas corpus are hereby incorporated by reference.

(108) The petitioner was denied the opportunity to present this claim when it was attempted to be raised at trial.

(109) The petitioner's constitutional right to the effective assistance of counsel, as protected by the Sixth and Fourteenth Amendments to the United States Constitution and Article First, §§ 8 and 9, of the Connecticut Constitution, was violated in the matters that were ultimately consolidated and tried in *State of Connecticut v. Michelle Troconis*, FST-CR20-0241178-T.

(110) Attorney Andrew Bowman provided deficient performance and/or incompetent counsel to the petitioner by:

(A) failing to protect the petitioner's constitutional rights by informing law enforcement and the prosecuting authority that he was representing the petitioner and that they should not speak to her under any circumstances unless and until he was contacted and gave consent on her behalf, in accordance with firmly established state constitutional principles recognized in, inter alia, *State v. Stoddard*, 206 Conn. 157 (1988);

(B) failing to ensure that the petitioner had sufficient time to consult with and prepare with counsel to make an informed and intelligent decision about whether to agree to speak to police and the conduct of the police interviews;

(C) failing to insist that counsel be provided the search and seizure warrant and supporting affidavit, and the arrest warrant affidavit related to the petitioner, and that he be allowed an opportunity to review those materials with the petitioner in order to assist and advise the petitioner on her decision about whether to submit to police interviews, or to at least review those materials himself before forming his opinion about whether the

petitioner should speak to the police, and to what extent she might do so;

(D) failing to adequately investigate and understand the petitioner's position related to her relationship with Fotis, her recollection of the events of May 24, 2019, and her knowledge of the disappearance of Jennifer, including reviewing and understanding the information that the petitioner had been provided about Jennifer in the context of the divorce proceedings that are described in paragraphs 46 and 47, above;

(E) failing to understand, and help the petitioner articulate to the police the petitioner's state of mind at the time of Jennifer's disappearance, including: the information that Fotis had provided to the petitioner about Jennifer's mental health and personal history, and the fact that some or all of the information from Fotis had seemingly been corroborated by the professionals involved in Fotis's contentious divorce proceedings with Jennifer;

(F) failing to ensure that the petitioner understood the advantages and disadvantages of speaking to the police about Jennifer's disappearance;

(G) failing to negotiate a proffer agreement with the State regarding the parameters of the police interviews including that the petitioner's statements during these interviews would not be admissible as substantive evidence against the petitioner related to a prosecution for her alleged role in Jennifer's disappearance;

(H) failing, at a minimum, to insist upon a proffer agreement or cooperation agreement be put in place after it became clear that the prosecuting

authority intended to prosecute the petitioner for her statements during the first police interrogation;

(I) failing to instruct the petitioner to decline further interrogation by the police once they made it clear that they did not believe the petitioner's version of events offered during the initial interview;

(J) failing to ensure that the petitioner's physical and mental fatigue, and any language barriers, did not impact her ability to comprehend the circumstances she faced;

(K) failing to object to the recording of the proffer session with the prosecuting authority, Richard Colangelo;

(L) failing to advise the petitioner not to speak to the police or the State unless there were safeguards in place to ensure that her attempts to cooperate would not be used against her;

(M) failing to advocate for the petitioner's position during the discussions with law enforcement, specifically that the petitioner did not have any direct knowledge of the circumstances of the disappearance or death of Jennifer, and that she was earnestly trying to provide whatever helpful information that she could;

(N) failing to provide evidence and information that the petitioner provided to him to the State or prosecuting authority due to counsel's unreasonable beliefs about the potential risks of providing such information;

(111) The foundation of the prosecution's case against the petitioner and her subsequent conviction in *State of Connecticut v. Michelle Troconis,* FST-CR20-

0241178-T was that the petitioner had allegedly lied to police, and that the jury could infer the petitioner's guilt because of those lies.

(112) The "lies" that the prosecution relied upon during the petitioner's criminal trial were almost all unintentional inaccuracies that could have been addressed during an appropriate proffer arrangement.

(113) Properly understood, the petitioner's interviews with the police reflect an earnest effort on the petitioner's behalf to be forthcoming and helpful with the police.

(114) The ineffective representation of Bowman all but sealed the fate of the petitioner at her criminal trial.

(115) The actions and inactions described in paragraph (109) above constituted deficient performance because they fell below the standard of care for criminal defense attorneys representing criminal defendants at the time of the petitioner's arrests.

(116) There is a reasonable probability that but for Bowman's deficient performance, as set forth above, the outcome of the criminal proceedings against the petitioner would have been different and more favorable to the petitioner.

(117) Bowman's conduct, including his breach of his duties of loyalty, competency, and advocacy, amounted to the total denial of counsel during the time of his representation, and prejudice must be presumed.

CLAIM TWO: THE PETITIONER'S CONSTITUTIONAL RIGHT TO DUE PROCESS WAS VIOLATED BY THE PROSECUTING AUTHORITY'S FAILURE TO PERFORM UNDER THE AGREEMENT THAT WAS NEGOTIATED WITH COUNSEL REGARDING THE PETITIONER'S COOPERATION

(118) Paragraphs (1) – (117) of this amended petition for a writ of habeas corpus are

hereby incorporated by reference.

(119) The petitioner did not raise this claim in any prior proceedings.

(120) The petitioner did not have an opportunity to raise this claim in any prior proceedings.

(121) The prosecuting authority violated the petitioner's constitutional right to due process, under the Fourteenth Amendment to the United States constitution and Article First, §§ 8 and 9, of the Connecticut Constitution, as outlined by *Santobello v. New York*, 404 U.S. 257 (1971), and other authorities, by failing to perform on the agreement, express or implicit, that Colangelo had in place with Bowman about the petitioner's cooperation.

(122) The petitioner's waiver of her right to silence was induced based upon the petitioner's reliance upon her understanding that the prosecuting authority was interested in utilizing the petitioner as a witness against Fotis.

(123) At the petitioner's criminal trial, Pawel Gumienny, an associate of Fotis who had also spoken to the police about the disappearance of Jennifer was granted immunity from prosecution before his testimony at the petitioner's criminal trial.

(124) The prosecuting authority had determined that Gumienny was entitled to immunity based upon Gumienny's lawyer's representations to the State that he had allowed Gumienny to speak with the police based upon a representation from Colangelo that Gumienny would not be prosecuted if he gave a statement.

(125) The agreement referenced by Gumienny's attorney was not in writing and Colangelo did not express a clear recollection of the representations he had made to Gumienny's counsel.

(126) Gumienny and the petitioner are similarly situated in terms of their decisions to waive their constitutional rights and speak to the police.

(127) The basis for the State's decision to grant Gumienny immunity from prosecution before the petitioner's criminal trial indicates that the petitioner should have similarly been given immunity from prosecution, or, at a minimum, her statements made as a result of the State's representations to Bowman about utilizing her as a witness should have been excluded as evidence.

(128) The petitioner's decision to exercise her right to counsel of choice and terminate Bowman has no bearing on whether the State is obligated to perform on its promises to the petitioner.

(129) The fact that Fotis Dulos committed suicide before he could be prosecuted for the murder of Jennifer Dulos has no bearing on whether the State was and is obligated to perform on the promises made to the petitioner to induce her to waive her constitutional rights, and the violation of that promise by the State has resulted in a manifest injustice.

REQUEST FOR RELIEF

The petitioner respectfully requests that this Court issue a writ of habeas corpus:

(1) directing the sentencing court to vacate the judgment in *State of Connecticut v. Michelle Troconis,* FST-CR20-0241178-T within 90 days or some other certain and reasonable period of time;

(2) directing the respondent to release the petitioner from confinement unless the sentencing court in *State of Connecticut v. Michelle Troconis,* FST-CR20-0241178-T vacates the judgment within 90 days or some other certain and reasonable period of time; and,

(3) ordering any other relief that law and justice requires.

Respectfully submitted,
Michelle Troconis
The Petitioner

By _____

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VERIFICATION OF PETITION FOR WRIT OF HABEAS CORPUS

I am an attorney licensed to practice law in the State of Connecticut, representing Ms. Michelle Troconis. I have discussed the facts and claims set forth in this petition with my client and I have reviewed evidence concerning the facts and evidence of the petitioner's conviction. Based on such an examination of the facts concerning Ms. Troconis's case, I truly believe Ms. Troconis is illegally confined and deprived of his liberty.

Michael Brown
Juris no.432702

Subscribed and sworn before me this 11th day of September, 2024

Adele Patterson
Commissioner of the Superior Court