Supreme Court of Florida

WEDNESDAY, JUNE 19, 2019

CASE NO.: SC19-70
Lower Tribunal No(s).:
062005CF013448A88810

TROY DAVENPORT vs. MARK S. INCH, ETC.

Petitioner(s) Respondent(s)

Because the Court has determined that relief is not authorized, this case is hereby dismissed. *See Baker v. State*, 878 So. 2d 1236 (Fla. 2004). Any motions or other requests for relief are also denied. No motion for rehearing or reinstatement will be entertained by this Court.

POLSTON, LABARGA, LAWSON, LUCK, and MUÑIZ, JJ., concur.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

db
Served:

KENNETH SCOTT STEELY
TROY DAVENPORT
HON. BRENDA D. FORMAN, CLERK
CELIA TERENZIO

Supreme Court of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

JOHN A. TOMASINO
CLERK
MARK CLAYTON
CHIEF DEPUTY CLERK
JULIA BREEDING
STAFF ATTORNEY

PHONE NUMBER: (850) 488-0125
www.floridasupremecourt.org

ACKNOWLEDGMENT OF NEW CASE

January 16, 2019

RE: TROY DAVENPORT vs. MARK S. INCH, ETC.

CASE NUMBER: SC19-70
Lower Tribunal Case Number(s): 062005CF013448A88810

The Florida Supreme Court has received the following documents reflecting a filing date of 1/15/2019.

Letter

The above listed pleading has been treated as a Petition for Writ of Habeas Corpus.

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause.

kc
cc:
KENNETH SCOTT STEELY
TROY DAVENPORT
CELIA TERENZIO
HON. BRENDA D. FORMAN, CLERK

Supreme Court of Florida

Office of the Clerk
500 South Duval Street
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May 9, 2019

RE: TROY DAVENPORT vs. MARK S. INCH, ETC.

CASE NUMBER: SC19-70
Lower Tribunal Case Number(s): 062005CF013448A88810

The Florida Supreme Court has received the following documents reflecting a filing date of 05/09/2019.

Notice of Commencement to Clerk of Court (Service Rule 1.070(a))
Money order number 2200972910 made out to Leon County Sheriff Office

Your money order made out to Leon County Sheriff Office in the amount of $40.00 is being returned herewith.

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause.

db
cc:
KENNETH SCOTT STEELY
TROY DAVENPORT
CELIA TERENZIO

IN THE SEVENTEENTH (17TH) JUDICIAL CIRCUIT COURT
IN AND FOR BROWARD COUNTY, FLORIDA

TROY DAVENPORT,
Defendant,

PROVIDED TO
SOUTH BAY CORRECTIONAL FACILITY
ON 5-8-18 FOR MAILING

v.

Case No.: F05-013447CF10A

STATE OF FLORIDA,
Plaintiff.
_____/

MOTION FOR POST-CONVICTION RELIEF RULE 3.850(H)
NEWLY DISCOVERED EVIDENCE

The Defendant, Troy Davenport, *pro se*, pursuant to Fla.R.Crim.P. Rule 3.850(h), respectfully moves this Honorable Court to Vacate, Set Aside his Judgment, Conviction and Sentence in the above style cause. And in support of this motion the Defendant avers the following:

1) The name and location of the court that entered the judgment of conviction and sentence in this case, is the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida.
2) The Circuit Court judge who presided over the Defendant's case was the Honorable Paul L. Backman.
3) The date of the judgment of conviction in this case was on June 21, 2006, in which the Defendant was adjudicated guilty for the following: count 1, burglary of a dwelling.
4) Length of sentence: on September 6, 2006, the trial court sentenced the Defendant pursuant to a habitual felony offender to 30 years and a 15 years as a prison releasee re-offender for burglary of a dwelling.
5) Defendant's plea: not guilty.

6) Trial by jury.

7) The Defendant appealed his judgment of conviction to the Fourth District Court of Appeal was *per curiam* affirmed, Davenport, Case No.: 4D06-3661.

8) Defendant filed a post-conviction motion 3.850 on December 2009. 4 grounds based on trial counsel rendered ineffective assistance on April 29, 2010, order denying Defendant's 3.850.

STATEMENT OF FACTS

Alleged victim, Mr. Eric Scallin, resided at 1681 NW 45th Street in Oakland Park.

Ms. Debra Severra is his next door neighbor. On the evening on August 3, 2005, at approximately 10:00 PM, she knocked on Scallin's door. She informed Scallin that someone had just taken some items out of his garage.

Mr. Scallin went into his garage and discovered that a number of his tools were missing. Within a few minutes, Scallin called the police.

Scallin testified that he does not know Defendant. He did not give him or anyone permission to be in his garage or take any tools on the evening of August 3, 2005.

Ms. Debra Severra, Scallin's neighbor, heard a loud vehicle outside her residence at 10:00 PM, the evening of August 3, 2005. She observed a white car backed up at her neighbor's garage.

Defendant was identified by her as in the driver seat of this vehicle. He told her, "oh, we're just visiting friends." She also noticed another black male removing items from the garage and placing them in the back seat of the vehicle.

Severra observed the tag number of this vehicle drove off. She later gave this tag number to police. Severra selected Defendant's photograph from photo lineup subsequently presented to her.

Deputy Suarez was dispatched to Scallin's residence that evening in reference to a burglary. He spoke to Eric Scallin and Debra Severra. He received a tag number and the description of the vehicle seen at the property.

On August 12, 2005, Deputy Mogavero, while on routine patrol for a driving infraction, the tag on the vehicle matched that given by Ms. Severra to the authorities.

Detective Holly Tucker placed Defendant's photograph into a photographic lineup she prepared with other photographs.

This photograph lineup was displayed to Ms. Debra Severra at her place of employment. She selected Defendant's photograph as the man at Scallin's home.

In addition, Ms. Severra also gave the deputy a mild description of the two (2) individuals.

Ms. Severra described the driver of the white vehicle as having a high afro type of hair with scars on his face.

GROUND 1

Defendant's arguments, based on newly discovered evidence would produce an acquittal or retrial. See Exhibit "A", Affidavit of David Ward.

There are two-prong test for determining post conviction claims of newly discovered evidence relating to a guilty conviction, which adopts the first prong of the *Jones* test and the second prong from *Grosvenor*.

Quoting *Jones v. State*, 591 So.2d 911, 915 (Fla. 1991), *Grosvenor*, 874 So.2d at 1181.

First, the evidence must not have been known by the trial court, the party, or counsel at the time of trial, and it must appear that the Defendant or defense counsel could not have known of it by the use of diligence.

On August 12, 2005, deputy Mogavero stopped a motor vehicle in which Defendant was the driver. After running a routine check on the vehicle tag number, deputy Mogavero discovered that the vehicle matched the tag number given by Ms. Severra to authorities on the night of August 3, 2005. Defendant was arrested and charged with burglarizing the garage of the alleged victim Mr. Scallin. Based on the testimony of Ms. Severra, she thought she observed Defendant sitting in the driver seat of the white vehicle.

Defendant recently learned an inmate incarcerated with him at South Bay Correctional Institution name David Ward committed the burglary with a friend named Randy.

The evidence which Defendant claims to be newly discovered evidence is reflected by affidavits attached to this motion and includes the following:

On March 29, 2018, David Ward, truly and freely solemnly swear that what I am about to state is the truth.

On August 3, 2005, I was the person with Randy involved in burglarizing the alleged victim's garage. David Ward further stated, he had the stolen vehicle from a trailer park of Broward and 27th Avenue, he had the vehicle for sometime before he started renting the vehicle out. On August 12, 2005, he rented the vehicle to Defendant Troy Davenport. He further stated that Defendant never knew the vehicle were stolen or used in a crime of burglary.

Mr. David Ward said I never knew that someone had got the tag number that night of the burglary. Mr. Ward was the driver when the neighbor came out of her house. He told her that he and Randy were visiting a friend so she wouldn't think anything was gong on.

In addition, Mr. Ward heard through rumors in the neighborhood that this guy Mr. Davenport had gotten arrested in the vehicle he rented him. I thought he was charged with a stolen vehicle.

I still didn't know that he had been charged with burglary. I never saw Defendant Davenport again until I was transferred to the same correctional institution South Bay. In addition, the affidavit of David Ward demonstrates that he and Randy committed this burglary.

The evidence in writing and include a clear and concise description of the evidence which demonstrates that the evidence is material to the outcome of the case and that it could not have been discovered prior to trial.

1) Prior to trial Mr. Davenport had no knowledge of who committed the crime of burglary.
2) Mr. Davenport had no knowledge that David Ward and Randy committed the crime of burglary.
3) The trial court, Defendant and counsel could not have known of it by the use of diligence. The second prong proven.

The Defendant demonstrates a reasonable probability that, but for the newly discovered evidence, the Defendant would have been acquitted. Because David Ward give a full concise description of all the events of the incident. Further, the person Ms. Severra described the driver of the white vehicle as having a high afro type hair with scars on his face fits the description of David Ward the night of August 3, 2005.

Quoting *Scott v. Dugger*, 604 So.2d 465; 468 (Fla. 1992); *Hallman v. State*, 371 So.2d 482, 485 (Fla. 1979), the newly discovered evidence is such nature that it would probably produce an acquittal or retrial with David Ward and Troy Davenport. Quoting *Jones v. State*, 591 So.2d 911, 915 (Fla. 1991).

RELIEF

1) Defendant is entitled to an evidentiary hearing based on newly discovered evidence which first became known and available on March 29, 2018.

   Defendant presented fact that unknown by the trial court, by the party, or by counsel at the time of trial and it became available for an acquittal or retrial. Based on swear affidavit of David Ward. See, Exhibit "A".

2) Such other and further relief as the court deems just and proper. Quoting, *Scott v. Dugger*, 604 So.2d 465, 468 (Fla. 1992), and *Jones v. State*, 591 So.2d 911, 915 (Fla. 1991).

3)

OATH

Under penalties of perjury I, Troy Davenport, DC# 646588, certify that I understand the contents of the foregoing motion, and the facts contained in this motion are true and correct.

I certify that this motion does not duplicate previous petitions that have been disposed of by the court. I further certify that I do understand English and have read the foregoing motion.

The foregoing motion was translated completely into a language which I understand.

Executed on 8th day of May, 2018.

Troy Davenport

Troy Davenport, *pro se*
DC# 646588

CERTIFICATE OF SERVICE

I certify that I placed this motion for post conviction relief in the hands of South Bay Correctional Facility officials for mailing to: State Attorney's Office, 201 S.E. 6th Street, Room 665 Ft. Lauderdale, Florida 33301, on this the 8th of May, 2018.

Troy Davenport

Troy Davenport, *pro se*
DC# 646588
South Bay Correctional Facility
P.O. Box 7171
South Bay, Florida 33493

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO: 05-013448CF10A

JUDGE: BACKMAN

STATE OF FLORIDA,
Plaintiff,

vs.

TROY DAVENPORT,
Defendant.
_____/

STATE'S RESPONSE TO THE DEFENDANT'S MOTION FOR POST CONVICTION RELIEF (3.850)(H) NEWLY DISCOVERED EVIDENCE

COMES NOW THE STATE OF FLORIDA, by and through the undersigned Assistant State Attorney, pursuant to this Court's Order of June 4, 2018 requiring the State to file a response within 90 days, hereby files this Response to the Defendant's Motion for Post-Conviction Relief Pursuant to Florida Rule of Crim. P. 3.850, and would show that the Defendant's Motion must be, in all things, Summarily Denied, as follows:

1. Defendant was charged on September 19, 2005 by Information with Burglary (Dwelling), a second degree felony. Defendant went to trial and on June 21, 2006 was found guilty by a jury of his peers as charged in the Information. (Exhibits A and B, also excerpt of trial testimony attached as Exhibit H). Also on June 21, 2006, defendant changed his plea on two additional cases to nolo contendere, to wit: 05-016889CF10A, Possession of Cocaine and Operating without a Valid Driver's License, and 05-018029CF10A, Attempted Burglary and Resisting without Violence, and received five years Florida State Prison with credit for time served. On

September 6, 2006, on trial case number 05-013448CF10A, defendant was sentenced to thirty years Florida State Prison as a habitual felony offender (HFO) and as a prison release reoffender (PRR). (Exhibit C). Defendant appealed the conviction to the Fourth District Court of Appeal in case number 4D06-3661 arguing that (1) the trial court erred in denying his motion for judgment of acquittal, (2) the jury instructions on the elements of burglary were fundamental error, and (3) the trial court erred in sentencing him as HFO and PRR. The appellate court affirmed his conviction without further comment on issues one and two. They reversed on the third issue, and on July 7, 2010 the defendant was resentenced to twenty-five years Florida State Prison as a HFO and PPR. Defendant appealed the Fourth District Court of Appeal's ruling to the Florida Supreme Court, case number SC08-227, which declined to accept jurisdiction. (Exhibit D). Defendant filed an Amended Motion for Postconviction Relief dated December 10, 2009, which was denied, and said Order was affirmed by the Fourth District Court of Appeal in case number 4D10-3728. (Exhibit E). Defendant filed a Petition for Writ of Habeas Corpus dated June 11, 2011, which was denied, and said Order was affirmed by the Fourth District Court of Appeal in case number 4D11-1398. (Exhibit F). Defendant is presently incarcerated with an expected release date is 2026.

2. In the instant motion, the defendant alleges newly discovered evidence in the form of Exhibit A to his motion, titled "Affidavit of David Ward", in which David Ward, a fellow inmate at South Bay Correctional Facility claims he and "Randy" committed the burglary in 2005 of which the defendant was convicted at trial. Defendant's

motion for postconviction relief based on newly discovered evidence is conclusively refuted by the record and by the law and must be summarily denied.

3. On the evening of August 3, 2005, at approximately 10:00 p.m. Debra Severra heard a noise, looked out the window of her home, and saw a car backed up to her neighbor's garage. Two black males were removing items from the garage. Ms. Severra asked them what they were doing and one stated they were visiting friends. They then fled in a vehicle. Ms. Severra noted the license plate number of the vehicle and the police were contacted. The tag came back to a stolen vehicle. Nine days later, the defendant was arrested driving this car. On that same date, the witness was shown a six photo black and white line up and, without hesitation, picked the defendant out of the line up as the driver of the car she had witnessed in her neighbor's driveway. At trial, the photo line up and the line up affidavit were introduced into evidence as State's Exhibits one and two. (Exhibit G). Also during the trial, Ms. Severra identified the defendant as the man she saw burglarizing her neighbor's home. (Exhibit H, P. 172-173) She also verified picking the defendant out of the photo line up. (Exhibit H, P. 180-182).

4. Defendant's conviction became "final" on the date of the Supreme Court's denial to accept jurisdiction on September 18, 2008. (Exhibit D). See Beaty v. State, 701 So2d 856 (Fla. 1997). Defendant was thus required to file his 3.850 post-conviction motion no later than two years after the date of this ruling, which would have been no later than September 18, 2010. Defendant has, however, filed this 3.850 motion on May 8, 2018, almost ten years after the Supreme Court's ruling. It should be noted that defendant had already filed a timely

motion for postconviction relief, which was denied on the merits. (Exhibit E). As to 3.850 statutory exceptions to the two-year time limit, defendant alleges a claim of newly discovered evidence pursuant to Rule 3.850 (b)(1). The "Affidavit of David Ward" offered as defendant's proof of newly discovered evidence is inherently suspect and entitled to little weight, See *Clark v. United States*, 370 F. Supp. 92 (1974) (where the defendant was not entitled to a hearing on newly discovered evidence that his twin brother had really committed the crime, after the statute of limitations on the crime had run, the affidavit of the twin brother conflicted with the trial testimony of two police officers, and was inherently suspect and entitled to little weight.) Here, as in *Clark*, the statute of limitations has run on the second degree offense of Burglary (Dwelling), and the affidavit of Ward conflicts with the trial testimony of the eye witness. Missing from the defendant's motion is an explanation as to why under the Strickland standard of review, See *Strickland v. Washington,* 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), this "newly discovered evidence" rises to the level that it could substantially affect the trial verdict when there was an eyewitness to the crime that positively identified the defendant as the culprit in a photo line up as well as at trial. Further, the defendant was convicted at trial after a jury of his peers heard evidence presented by the State, and the defense cross-examined the State's witnesses. After all the evidence was presented and after closing arguments, the jurors found the defendant guilty of burglary (dwelling) beyond a reasonable doubt. (Exhibit B). The Fourth District Court of Appeal denied defendant's

motion challenging the lower court's denial of his motion for acquittal and the jury instructions, and the Supreme Court declined to accept jurisdiction. (Exhibit D).

5. The Florida Supreme Court has set forth the following standard of review for 3.850 claims based on newly discovered evidence, in accordance with the *Strickland* standard, in cases where a jury trial conviction resulted. The two-prong test in *Long v. State*, 183 So.2d 342 (Fla. 2016) is: first, the evidence must not have been known at the time of trial and neither the defendant nor defense counsel could have known of it by the use of diligence; and second, the newly discovered evidence would likely produce an acquittal on retrial. *See* Jones v. State, 709 So.2d 512, 521 (Fla.1998) (*Jones II*). Newly discovered evidence satisfies the second prong of the *Jones II* test if it "weakens the case against [the defendant] so as to give rise to a reasonable doubt as to his culpability." Jones II, 709 So.2d at 526 (quoting Jones v. State, 678 So.2d 309, 315 (Fla.1996)). If the defendant is seeking to vacate a sentence, the second prong requires that the newly discovered evidence would probably yield a less severe sentence. *See* Jones v. State, 591 So.2d 911, 915 (Fla.1991) (*Jones I*).

6. While the alleged "newly discovered evidence", if credible, might meet the first prong of *Jones*, it is not of such a nature that it would likely produce a different result or an acquittal at trial as required in *Jones*. David Ward, a convict who is housed at the same facility as the defendant and is scheduled to be released from incarceration on August 10, 2020—six years before the defendant's current release date—has nothing to lose by falsely claiming he was the one who committed the burglary thirteen years ago of which the

defendant was convicted at trial. Ward, himself, was sentenced to fifteen years prison in 2007 on twelve felonies including burglary and grand theft, and has been involved with the Florida State Prison system since 1986. (Exhibit I). Additionally, the statute of limitations for a Burglary (Dwelling) as a second degree felony is three years. Therefore, if there was any credibility to Ward's claim he would not be eligible for prosecution. See Florida Statutes 775.15(2)(b). Ward's affidavit additionally lacks belief and credibility because he claims that he heard through rumors that the defendant got arrested. Ward thought the defendant was charged with the car being stolen and didn't know he had been charged with the burglary that Ward and "Randy" had done – "until sometime later". (See "Affidavit of David Ward"). Ward seems to suggest that it was okay for the defendant to be arrested for the stolen car, but not for the burglary. Further, the "Affidavit of David Ward" is dated March 29, 2018. Approximately six months earlier the defendant sent a letter to the Honorable Judge Paul Backman, which letter was filed with the Court by the State on September 26, 2017. In this letter, with attachments, defendant asked the Court to mitigate his sentence citing his accomplishments while in prison including the following: "I'd like the courts to know that my thirteen years of incarceration has not been a wasted thirteen years, but years of reprogramming my way of thinking so that I could be a better person, and I could truly say that I'm not the same man I was in 2005." And, "...it's really sad that one has to come to prison for thirteen years to get something that we should have gotten when we were kids. Only if I would have just taken the

time, instead of doing wrong –". Defendant's words are the admissions and regrets of a guilty man and not of one who was misidentified at the scene of a crime. (Exhibit J).

7. Florida Courts have recognized the spurious claims of jailhouse confessions as self-serving means for defendants to claim newly discovered evidence and attempt to get new trials. In *Marek v. State*, 14 So.3d 985 (2009), the Florida Supreme Court held that a defendant was not entitled to a new trial based on newly discovered evidence that came in the form of an accomplice's jailhouse confession as the accomplice was already serving a life sentence for his role in the murder and could not be retried for being the person who actually strangled the victim, would not believe he would be retried for perjury, and the statute of limitation had expired for a civil suit to be filed against the accomplice. *Marek*, 14 So.3d at 995. Also see, *Blanco v. State*, 702 So.2d 1250 (1997) (postconviction court found that testimony presented was "made up" by witnesses after trial, that testimony was unworthy of belief and totally inconsistent with evidence at trial, and would not result in acquittal at trial.) and *Bolin v. State*, 184 So.3d 492 (2015) (defendant was not entitled to new trial due to newly discovered evidence that Ohio inmate confessed to the murder).

8. In conclusion, defendant's "newly discovered evidence" is unlikely to produce an acquittal at trial as required in *Jones*. The "Affidavit of David Ward" is inherently suspect and entitled to little weight. *Clark v. United States*, 370 F. Supp. 92 (1974). The affidavit was produced thirteen years after the crime and

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

TROY DAVENPORT,

Defendant.
_____/

CASE NO.: 05-013448 CF10A

JUDGE: PAUL L. BACKMAN

DIVISION: FX

ORDER DENYING DEFENDANT'S
MOTION FOR POST-CONVICTION RELIEF

THIS CAUSE having come before this Court upon the Defendant's Motion for Post-Conviction Relief dated May 8, 2018, filed pursuant to Florida Rules of Criminal Procedure 3.850, and this Court having considered same, along with the State's Response dated July 23, 2018, thereto, and being fully advised in the premises, it is hereby,

ORDERED AND ADJUDGED that the Defendant's Motion for Post-Conviction Relief Newly Discovered Evidence is hereby **denied,** for reasons set forth in the State's Response, which are incorporated by reference herein. As a result of the voluminous nature of the State's Response and because a copy of said Response has already been supplied to all parties, including the Defendant on July 23, 2018, as indicated by Assistant State Attorney Joanne Lewis, Esq., an additional copy of the Response is not attached to the instant Order.

Defendant has thirty (30) days to appeal from the rendition of this Order.

DONE AND ORDERED in Chambers on August 6, 2018, at Fort Lauderdale, Broward County, Florida.

Paul Backman
_____
PAUL L. BACKMAN, Circuit Judge
A True Copy

Copies furnished:

Joanne Lewis, Esq., Assistant State Attorney, Appeals Division

Troy Davenport, DC#646588
South Bay Correctional Institution
P.O. Box 7171
South Bay, Florida 33493

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

TROY DAVENPORT,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D18-2552

[December 6, 2018]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Paul L. Backman, Judge; L.T. Case No. 05-13448 CF10A.

Troy Davenport, South Bay, pro se.

No appearance required for appellee.

PER CURIAM.

Affirmed.

CIKLIN, LEVINE and CONNER, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

NARRATIVE

ON 8/3/05 AT APPROXIMATELY 21:45 HOURS, I RESPONDED TO 1681 NORTH WEST 45TH STREET, IN FOR LAUDERDALE IN REFERENCE TO A BURGLARY. UPON ARRIVAL I MET WITH HOME OWNER / VICTIM, ERIC SCALLIM WHO ADVISED THE FOLLOWING.

SCALLIM STATED THAT HE HAD LEFT HIS GARAGE DOOR WIDE OPEN AND TWO UNKNOWN BLACK MALES HAD WALKED IN AND TAKEN HIS MAKITA CORDLESS DRILL, SKILL CIRCULAR SAW, AND SEARS TIRE PUMP. HE STATED THAT HE DID NOT OBSERVED THE INCIDENT HIMSELF HOWEVER, HE WAS NOTIFIED BY NEXT DOOR NEIGHBOR, DEBRA SEVERA WHO TOLD HIM THAT SHE HAD SEEN THE TWO BLACK MALES GETTING AWAY WITH HIS TOOLS. WHEN ASKED, SCALLIM INVENTORIED HIS GARAGE AND DID NOT FIND ANY OTHER ITEMS MISSING.

I THEN MADE CONTACT WITH SEVERA WHO STATED THAT SHE HEARD WHAT SOUNDED LIKE A VEHICLES ENGINE VERY CLOSE TO HER HOUSE AT APPROXIMATELY 21:30 HOURS. SHE ADVISED THAT WHEN SHE LOOKED OUT OF HER WINDOW, SHE OBSERVED A SMALL FOUR DOOR WHITE OLDER MODULE VEHICLE BACKED UP ON THE GLASS IN BETWEEN HER HOUSE AND HER NEIGHBORS. SEVERA STATED THAT AS SHE WALKED OUTSIDE OF HER HOUSE AND APPROACHED THE VEHICLE, SHE SEEN A BLACK MALE SITTING IN THE two DRIVERS SEAT. SEVERA STATED THAT SHE ASKED THE UNKNOWN BLACK MAN WHAT WAS HE DOING THERE AND HE STATED THAT HE WAS JUST VISITING. SEVERA STATED THAT JUST THEN ANOTHER BLACK MALE WALKED OUT OF SCALLIM'S GARAGE CARRYING HIS TOOLS. SHE ADVISED THAT HE GOT INTO THE VEHICLE AND THE TWO DROVE AWAY. SEVERA STATED THAT SHE WAS ABLE TO COPY THE VEHICLES TAG NUMBER Q943YZ BEFORE IT DROVE AWAY ONTO WEST PROSPECT ROAD. WHEN ASKED, SEVERA STATED THAT ALTHOUGH IT WAS DARK , SHE WAS ABLE TO GET A MILD DESCRIPTION OF THE TWO SUBJECTS. SHE DESCRIBED THE DRIVER AS HAVING HIGH AFRO TYPE HAIR WITH SCARES ON HIS FACE. SHE ADVISED THAT SHE DID NOT GET A GOOD LOOK AT THE PASSENGER HOWEVER, SHE STATED THAT HE HAD SHORT BRAIDED HAIR.

WHILE ON SCENE DISPATCH ADVISED THAT FLORIDA TAG # Q943YZ CAME BACK TO A STOLEN VEHICLE OUT OF FORT LAUDERDALE CASE # 05-91764. THE VEHICLE IDENTIFIED AS A GRAY 1989 FOUR DOOR OLDSMOBILE CALAIS, VIN NUMBER 1G3NL54VIKM255081. BECAUSE OF THE FACT THAT THE GARAGE DOOR WAS LEFT WIDE OPEN AND THE SUSPECT DID NOT HAVE TO TOUCH ANYTHING IN ORDER TO MAKE ENTRY, NO LATENT PRINTS WERE LIFTED. WITH THE HELP OF OTHER DEPUTIES, THE AREA OF PROSPECT ROAD FROM NORTH WEST 31ST AVE TO POWERLINE ROAD WAS CANVASSED WITH NEGATIVE RESULTS. NF

X Dep Raymond Suarez
Signature

X _____
Supervisor