

APPENDIX A

Decision of the First District Court of Appeal of Florida

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D19-1544

TARVARES JAMES WATSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Marianne L. Aho, Judge.

October 17, 2019

PER CURIAM.

AFFIRMED.

RAY, C.J., and MAKAR and KELSEY, JJ., concur.

*Not final until disposition of any timely and
authorized motion under Fla. R. App. P. 9.330 or
9.331.*

APPENDIX B

Order denying Motion for Postconviction Relief Based on Newly
Discovered Evidence

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 16-2006-CF-16774-AXXX

DIVISION: CR-H

STATE OF FLORIDA

v.

TARVARES JAMES WATSON,
Defendant.

ORDER DENYING DEFENDANT'S MOTION FOR POSTCONVICTION RELIEF

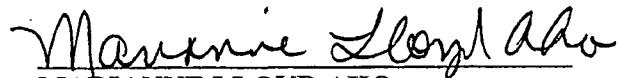
BASED ON NEWLY DISCOVERED EVIDENCE

This matter came before this Court on Defendant's Motion for Postconviction Relief based on Newly Discovered Evidence, filed on August 6, 2018, pursuant to Florida Rule of Criminal Procedure 3.850.

In the instant Motion, Defendant alleges newly discovered evidence. The record refutes this allegation [Exhibits A, B, C, D, E, F, G, H, and I]. The newly discovered evidence affidavit does not contain any information the Defendant did not already know about at the time of trial. In view of the above, it is:

ORDERED AND ADJUDGED that Defendant's Motion for Postconviction Relief based on Newly Discovered Evidence is hereby **DENIED**. Defendant shall have thirty (30) days from the date that this Order is filed in which to take an appeal, by filing a Notice of Appeal with the Clerk of the Court.

DONE AND ORDERED in Chambers, in Jacksonville, Duval County, Florida, on this
27th day of March, 2019.


MARIANNE LLOYD AHO
Circuit Court Judge

Copies to:

Garrett Hill, Assistant State Attorney

Sierra Kornbluth, Assistant State Attorney

Tarvares James Watson
DOC # J26050
Cross City Correctional Institution
568 NE 255th Street
Cross City, Florida 32628

CERTIFICATE OF SERVICE

I do certify that a copy of the foregoing has been furnished to Defendant by U.S. mail this

1st day of April, 2019.

J. Mack
Deputy Clerk

Case No.: 16-2006-CF-16774-AXXX

Attachment: Exhibits A, B, C, D, E, F, G, H, and I

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IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN
AND FOR DUVAL COUNTY, FLORIDA.

CASE NO.: 16-2006-CF-16774-AXXX
DIVISION: CR-F

STATE OF FLORIDA

vs.

TARVARES WATSON

ORDER GRANTING MOTION TO CORRECT SENTENCING ERROR

This cause came on to be heard on the defendant's Second Motion to Correct Sentencing Error filed herein. The Court, having reviewed the entire record herein, and being otherwise fully advised in the premises, it is, upon consideration, hereby **ORDERED AND ADJUDGED**:

1. The defendant's Motion to Correct Sentencing Error filed herein should be and the same is hereby **GRANTED**.
2. The minimum mandatory life provision imposed herein on Count Three is hereby **VACATED**.
3. All other provisions of the Judgment and Sentence previously entered herein shall remain in full force and effect.
4. The Clerk of the Court is directed to file a corrected Judgment and Sentence pursuant to this order and forward a copy of same to the Florida Department of Corrections.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida this 6 day of November, 2008.


CIRCUIT JUDGE

Copies to:

Alan Mizrahi, Esq.
Assistant State Attorney

W. Charles Fletcher, Esq.
233 E. Bay Street, Suite 1020
Jacksonville, FL 32202

Trisha Meggs Pate, Esq.
Office of the Attorney General
The Capitol, PL01
Tallahassee, FL 32399-1050

M. J. Lord, Esq.
Assistant Public Defender
Leon County Courthouse
301 South Monroe Street, Suite 401
Tallahassee, FL 32301

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida

Division CR-F

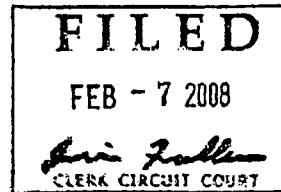
Case Number 16-2006-CF- 16774-AXXX-MA

Probation Violator
Community Control Violator
Retrial
Resentence

State of Florida

v TARVARES JAMES WATSON

Defendant Sentence of Feb 7, 2008, Count 4 only Vacated
and Set Aside per Judge's Order



Inst #: 2008035685
BK: 14639 PAGES 96-104
RECORDED 02/12/2008 11:11
Clerk of Courts
Duval County Florida
ERecord -smithcd

9/15/08
Please - Record To Reflect Count 4 Set Aside and Later
9/15/08
Please - Record To Reflect Change To Count 3 on Page 7 of 8 Per Judge's Order

JUDGMENT

The defendant, TARVARES JAMES WATSON, being personally before this court
represented by C. Fletcher Appiaid, the attorney of record, and the state
represented by A. Mizrahi, and having

been tried and found guilty by jury by court of the following crime(s)
 entered a plea of guilty to the following crime(s)
 entered a plea of nolo contendere to the following crime(s)

Count	Crime	Offense Statute Number(s)	Degree of Crime	Case Number	OBTS Number
1	First degree Murder	782.04(1)(a) 775.087(1)	Capital		
		775.087(2)(a)3			
2	Armed burglary with battery	810.02(2)(a) 810.02(2)(b) 775.087(1) 775.087(2)(a)3	1 PBL		
3	Attempted murder in the first degree	782.04(1)(a) 775.087(1) 775.087(2)(a)3 777.04(1)	1 PBL		
Instr #: 2008236457 BK: 14639 PAGES 167-174 RECORDED 09/16/2008 08:56 Clerk of Courts Duval County Florida ERecord -baileyka					

and no cause being shown why the defendant should not be adjudicated guilty, IT IS ORDERED that the defendant is hereby ADJUDICATED GUILTY of the above crime(s).
 and having been convicted or found guilty of, or having entered a plea of nolo contendere or guilty, regardless of adjudication, to attempts or offenses relating to sexual battery (ch. 794), lewd and lascivious conduct (ch. 800), or murder (s. 782.04), aggravated battery (s. 784.045), burglary (s. 810.02), carjacking (s. 812.133), home invasion robbery (s. 812.135), robbery (s. 812.13), or robbery by sudden snatching (s. 812.131), chapter 787 kidnapping, false imprisonment, luring or enticing a child, and interference with custody; or any other offense specified in section 943.325, the defendant shall be required to submit blood specimens or other approved biological specimens.

and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

Page 8 of 8

000347

Form CCFM0A

1A

State of Florida
v.

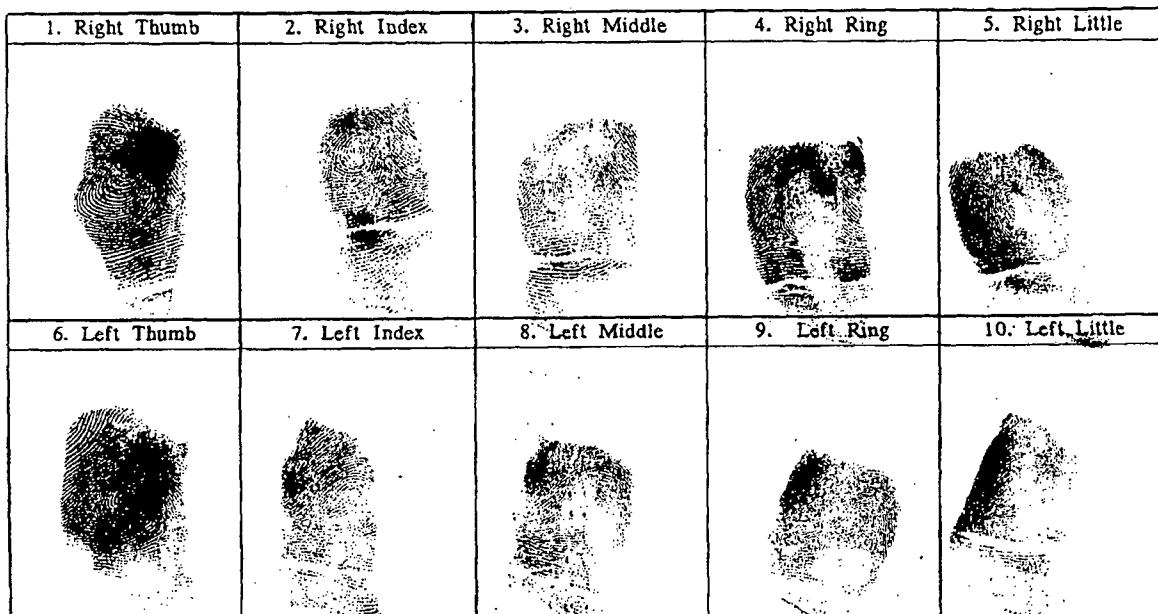
TARVARES JAMES WATSON

Case Number 16-2006-CF- 16774-AXXX-MA

Defendant

Imposition of Sentence Stayed and Withheld (Check if Applicable) The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation/community control for a period of _____ under the supervision of the Department of Corrections (conditions of probation/community control set forth in separate order.)

FINGERPRINTS OF DEFENDANT



Fingerprints taken by: Barbara Heggins 9848 Name Judge Title

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, TARVARES JAMES WATSON, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida,
this 7th day of February, 2008.

JP Haddad
Judge

000348

Page 2 of 8

Form CCFB04

STATE OF FLORIDA

v

TARVARES JAMES WATSON

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida
Division CR-F
Case Number 16-2006-CF- 16774-AXXX-MA

Defendant

CHARGES/COSTS/FEES

The defendant is hereby ordered to pay the following sums if checked:

\$50.00 pursuant to section 938.03, Florida Statutes (Crimes Compensation Trust Fund).

\$3.00 as a court cost pursuant to section 938.01(1), Florida Statutes (Additional Court Cost Clearing Trust Fund).

\$2.00 as a court cost pursuant to section 938.15, Florida Statutes (Criminal Justice Education by Municipalities and Counties).

A fine in the sum of \$ _____ pursuant to section 775.0835, Florida Statutes. (This provision refers to the optional fine for the Crimes Compensation Trust Fund and is not applicable unless checked and completed. Fines imposed as a part of a sentence to section 775.083, Florida Statutes are to be recorded on the sentence page(s).)

\$20.00 pursuant to section 938.09, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

A 10% surcharge in the sum of \$ _____ pursuant to section 938.11, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).

A sum of \$ _____ pursuant to section 938.27, Florida Statutes (Prosecution/Investigative Costs).

A sum of \$ 250.00 pursuant to section 938.29, Florida Statutes (Public Defender Fees).

\$15.00 pursuant to 938.13, Florida Statutes, Misd. convictions involving drugs or alcohol.

\$200.00 pursuant to section 938.05, Florida Statutes (Local Government Criminal Justice Trust Fund).

A sum of \$ _____ pursuant to 938.04, Florida Statutes (additional cost - 5% of fine).

\$135.00 pursuant to section 938.07, Florida Statutes (EMS - DUI cases).

\$100.00 pursuant to section 938.25, Florida Statutes, (FDLE Operating Trust Fund).

A sum of \$ _____ pursuant to 938.23, Florida Statutes, (Grants For Alcohol & Other Drug Abuse Program - Drug Abuse Trust Fund).

A sum of \$ _____ pursuant to 939.18, Florida Statutes, (Assessment of Additional Court Costs for Court Facilities - not to exceed \$150.00).

Restitution in accordance with attached order.

A sum of \$20 pursuant to 938.06, Florida Statutes, (Assessment of Additional Court Costs for Crime Stoppers Trust Fund - not to exceed \$500.00).

A sum of \$3.00 pursuant to 938.19, Florida Statutes, (Assessment of Additional Court Costs - Duval County Teen Court Trust Fund).

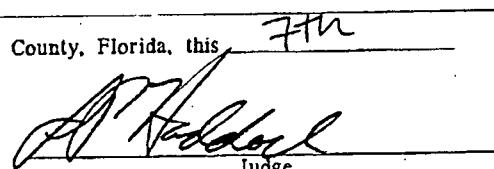
A sum of \$ _____ pursuant to 318.18(13), Florida Statute, and COJ Ordinance Code 634.102(e), (Court House Trust Fund).

A sum of \$201.00 (Domestic Battery surcharge).

A sum of \$151.00 pursuant to 938.085, Florida Statutes (Rape Crisis Trust Fund).

A sum of \$ 65.00 pursuant to 939.185, Florida Statutes, (Assessment of Additional Court Costs to be used for innovations, legal aid, law library, teen court programs - not to exceed \$65.00).

Other _____

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 7thday of February, 2008.


Judge J. Tedder
000349
Page 3 of 8

Defendant TARVARES JAMES WATSON Case Number 16-2006-CF- 16774-AXXX-MA OBTS Number 1602093238

SENTENCE

(As to Count 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record C.Fletcher App'd, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

and the court having on 01/09/08 (date) deferred imposition of sentence until this date.

and the court having previously entered a judgment in this case on _____ now resentences the defendant

and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control.

It Is The Sentence Of The Court That:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes plus \$ _____ as the 5% surcharge required by 938.04, Florida Statutes.

The defendant is hereby committed to the custody of the Department of Corrections.

The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of Life.

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.

Jail Credit It is further ordered that the defendant shall be allowed a total of 92 days as credit for time incarcerated before imposition of this sentence.

Prison Credit It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/ Concurrent As To Other Counts It is further ordered that the sentence imposed for this count shall run (check one) consecutive to concurrent with the sentence set forth in count _____ of this case.

000350

Page 4 of 8

Form CCFMOC

Defendant TARVARES JAMES WATSON Case Number 16-2006-CF- 16774-AXXX-MA OBTS Number 1602093238

SENTENCE

(As to Count 2)

The defendant, being personally before this court, accompanied by the defendant's attorney of record C. Fletcher Appell, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

and the court having on 01/09/08 (date) deferred imposition of sentence until this date.

and the court having previously entered a judgment in this case on _____ now resentence the defendant

and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control.

It Is The Sentence Of The Court That:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes plus \$ _____ as the 5% surcharge required by 938.04, Florida Statutes.

The defendant is hereby committed to the custody of the Department of Corrections.

The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of Life.

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.

Jail Credit It is further ordered that the defendant shall be allowed a total of 0 days as credit for time incarcerated before imposition of this sentence.

Prison Credit It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/
Concurrent
As To Other Counts It is further ordered that the sentence imposed for this count shall run (check one) consecutive to concurrent with the sentence set forth in count 1 of this case.

000351

Form CCFMOC

Page 5 of 8

Defendant TARVARES WATSONCase Number 16-2007-CF-16774-AXXX-MA**SENTENCE**(As to Count 3)

The defendant, being personally before this court, accompanied by the defendant's attorney of record C. Fletcher, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

and the court having on 01/09/08 (date) deferred imposition of sentence until this date.

and the court having previously entered a judgment in this case on _____ now resentence the defendant

and the court having placed the defendant on probation/ community control and having subsequently revoked the defendant's probation/ community control.

It Is The Sentence Of The Court That:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes plus \$ _____ as the 5% surcharge required by 938.04, Florida Statutes.

The defendant is hereby committed to the custody of the Department of Corrections.

The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of life

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on probation/ community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/ community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/ community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction

The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.

Jail Credit

It is further ordered that the defendant shall be allowed a total of 0 days as credit for time incarcerated before imposition of this sentence.

Prison Credit

It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/
Concurrent
As TQ Other Counts

It is further ordered that the sentence imposed for this count shall run (check one) consecutive to concurrent with the sentence set forth in count 2 of this case.

Page 6 of 8

000352

Defendant TARVARES JAMES WATSON Case Number 16-2006-CF- 16774-AXXX-MA**SPECIAL PROVISIONS**

By appropriate notation, the following provisions apply to the sentence imposed:

Mandatory/Minimum Provisions:

Firearm It is further ordered that the Life minimum imprisonment provisions of section 775.087, Florida Statutes, is hereby imposed for the sentence specified in this count. 1,2 (10,20, Life)

Drug Trafficking It is further ordered that the mandatory minimum imprisonment provisions of section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.

Controlled Substance Within 1,000 Feet of School It is further ordered that the 3-year minimum imprisonment provisions of section 893.13(1)(c)1, Florida Statutes, is hereby imposed for the sentence specified in this count.

Habitual Felony Offender The defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Habitual Violent Felony Offender The Defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(b), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.

Violent Career Criminal The Defendant is adjudicated a violent career criminal and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(c), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.

Prison Releasee Re-Offender The Defendant is adjudicated a prison releasee re-offender in accordance with the provisions of section 775.082(8), and must serve 100 percent of the court imposed sentence.

Law Enforcement Protection Act It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with section 775.0823, Florida Statutes.

Capital Offense It is further ordered that the defendant shall serve no less than 25 years in accordance with the provisions of section 775.082(1), Florida Statutes.

Short-Barreled Rifle, Shotgun, Machine Gun It is further ordered that the 5-year minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count.

Continuing Criminal Enterprise It is further ordered that the 25-year minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count.

Aggravated Assault on a Law Enforcement Officer It is further ordered that the 3 year minimum term of imprisonment provisions of section 784.07(2)(c), Florida Statutes, is hereby imposed for the sentence specified in this count.

000354

Page 7 of 8

Form CCPMOD

Defendant TAVARES James Watson Case Number 16-2006-CF-16774-AXXX-MA

OTHER PROVISIONS

Consecutive/
Concurrent
As To Other
Convictions

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run

(check one) consecutive to concurrent
with the following:

(check one)

 any active sentence being served.

 specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of Duval County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further recommends _____

DONE AND ORDERED in open court at Jacksonville, Duval County, Florida, this 12th
day of September, 2008.

L. J. Haddad
Judge

Page 8 of 8

Form CCFM08

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA.

CASE NO: 16-2006-CF-16774-AXXX
DIVISION: CR-F

FILED 10 APR 2011 11:45 AM FLA

STATE OF FLORIDA

vs.

TARVARES WATSON

ORDER DENYING MOTION TO CORRECT ILLEGAL SENTENCE

This cause came before the Court on defendant's Motion to Correct Illegal Judgment and Sentence filed herein on April 21, 2010. The Court, having reviewed the entire record herein and being otherwise fully advised in the premises, finds that the sentence imposed is lawful, correct and appropriate.

Wherefore, it is hereby **ORDERED AND ADJUDGED** that the defendant's Motion to Correct Illegal Judgment and Sentence should be and the same is hereby **denied**.

The movant may appeal the denial of this motion within thirty (30) days of the date of rendition of this order.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, this 26
day of April, 2010.


CIRCUIT JUDGE

Copies to:

State Attorney's Office
Division CR-F

Tarvares Watson, #J26050
Gulf Correctional Institution-Annex
699 Ike Steele Road
Wewahitchka, FL 32465

FILED
IN COMPUTER
J. BAILEY

M A N D A T E

From

DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

To the Honorable Judges of the Circuit Court for Duval County
WHEREAS, in the certain cause filed in this Court styled:

TARVARES WATSON

Case No.: 1D10-3114

Y.

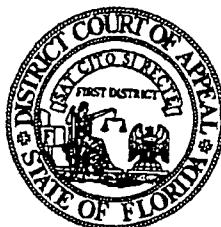
Lower Tribunal Case No : 2006-CE-16774

STATE OF FLORIDA

The attached opinion was issued on August 5, 2010.

YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with said opinion, the rules of Court, and the laws of the State of Florida.

WITNESS the Honorable PAUL M. HAWKES, Chief Judge
of the District Court of Appeal of Florida, First District,
and the Seal of said Court done at Tallahassee, Florida,
on this 31st day of August 2010.



John S. Wheeler
JOHN S. WHEELER, Clerk
District Court of Appeal of Florida, First District

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

TARVARES WATSON,

Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D10-3114

STATE OF FLORIDA,

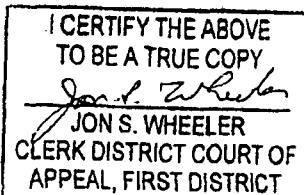
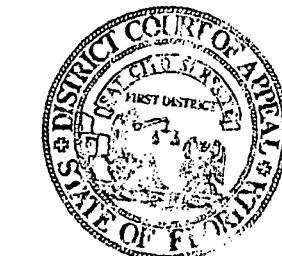
Appellee.

Opinion filed August 5, 2010.

An appeal from the Circuit Court for Duval County.
L. P. Haddock, Judge.

Tavares Watson, pro se, Appellant.

Bill McCollum, Attorney General, Tallahassee, for Appellee.



PER CURIAM.

AFFIRMED.

WOLF, ROBERTS, and WETHERELL, JJ., CONCUR.

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA.

CASE NO.: 16-2006-CF-16774-AXXX
DIVISION: CR-F

STATE OF FLORIDA

VS.

TARVARES JAMES WATSON

ORDER DENYING MOTION FOR POST CONVICTION RELIEF

The defendant herein filed a Motion for Post Conviction Relief pursuant to Rule 3.850, Florida Rules of Criminal Procedure on June 7, 2010. Pursuant to this Court's order, the State filed a response to defendant's motion.

Upon consideration, it is hereby ORDERED AND ADJUDGED that the defendant's Motion for Post Conviction Relief is hereby denied for the reasons set forth in the State's Response to Defendant's Motion for Post Conviction filed herein. (Attached hereto as Exhibit "A" and by reference made a part hereof.)

The movant may appeal the denial of his motion within thirty (30) days of the date of rendition of this order.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, this 3 day of August, 2010.


CIRCUIT JUDGE

FILED
IN COMPUTER
J. BAILEY

Copies to:

Alan Mizrahi, Esq. (w/o attachments)
Assistant State Attorney

Tarvares Watson, #J26050
Gulf Correctional Institution-Annex
699 Ike Steele Road
Wewahitchka, FL 32465

S.A. CASE NO.:
05CF128149AD

IN THE CIRCUIT COURT OF THE FOURTH
JUDICIAL CIRCUIT, IN AND FOR DUVAL
COUNTY, FLORIDA

CLERK NO.:162006CF016774AXXXMA

STATE OF FLORIDA

DIVISION: CRF

vs.

TARVARES JAMES WATSON

2006CF128149AD

State's Response to Order Directing State Attorney to File a Response

The State, by and through the undersigned attorney, hereby files this Response to Defendant's Motion for Post Conviction Relief, and requests that Defendant's Motion for Post Conviction Relief be denied without an evidentiary hearing. In order to prevail on a claim of ineffective assistance of counsel, Defendant must show that: 1) counsel's performance was outside a wide range of reasonable professional assistance, and 2) counsel's deficient performance prejudiced the defense, that is, there is a reasonable probability that the outcome of the proceeding would have been different absent counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687 (1984); Cherry v. State, 659 So. 2d 1069, 1072 (Fla. 1995). Further, the standard for determining an attorney's performance is reasonably effective counsel, not perfect or error free counsel. Coleman v. State, 718 So. 2d 827, 829 (Fla. 4th DCA 1998). Prejudice is demonstrated if the deficiency was sufficient to render the verdict unreliable. Gorham v. State, 521 So. 2d 1067 (Fla. 1988). A claim of ineffective assistance of counsel will warrant an evidentiary hearing only when the Defendant alleges specific facts which are not conclusively rebutted by the record *and* which demonstrate a deficiency in performance that prejudiced the Defendant. Roberts v. State, 568 So. 2d 1255, 1259 (Fla. 1990). Further, to establish prejudice, a Defendant must show that there is a reasonable probability that, but for counsel's unprofessional error, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome. Valle v. State, 778 So. 2d 960, 965-66 (Fla. 2001).

Defendant alleges ten (10) grounds in his motion. Each ground is unfounded and Defendant's Motion should be denied without a hearing. Defendant was convicted, as charged, of Murder in the First Degree, Attempted Murder in the First Degree, and Armed Burglary with a Battery.¹ The evidence of Defendant's guilt was overwhelming. Jennifer Gantt, the deceased victim, was shot nine (9) separate time with a high powered rifle. (See, R. Vol. IV p. 141).

¹ Defendant was also convicted of Attempted Felony Murder, but Defendant could not be convicted of both Attempted First and Attempted Felony Murder.

EXHIBIT A

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Jerome Hughes, the surviving victim, was shot four (4) to five (5) times. (See. R. Vol. IV p. 114) Both victims were shot inside the bedroom of their apartment. (See. R. Vol. IV p. 31-32) The victims front door was clearly forced open. (See. R. Vol. IV p. 92). The crime scene revealed 18 7.62mm spent shell casings inside the residence. (See. R. Vol. IV p.102) Additionally, a live 7.62mm round was found inside the apartment. (See. R. Vol. IV p. 94) The crime scene also revealed Jerome Hughes' 9mm gun was fired once. (See. R. Vol. IV p. 97-98) Police noticed that a blood trail led from the residence to the parking lot. (See. R. Vol. IV p. 30) Based on the victim's gun being fired and there being a blood trail leaving the victims' residence, investigators deduced that a shooter was wounded during this crime.

Hours after this shooting, Defendant appeared at a hospital in Brunswick GA., complaining of a gunshot wound. Defendant's history of being shot was inconsistent and contained clearly false information. (See. R. Vol. IV p. 66-67). Police obtained a DNA standard from Defendant at the hospital and were able to match the blood trail leaving the victims' residence to Defendant. Defendant's "touch" DNA was found of the live 7.62mm round of ammunition. (See. R. Vol. IV p. 166-175). In addition to lying to police about the cause of Defendant's injury, Defendant lied to witness Emory Griffin about the nature and the cause of Defendant's injured arm. (See Vol. IV p. 78). Defendant fled the jurisdiction and was arrested approximately 18 months after the incident. Only then does Defendant finally admit knowledge of the incident. Defendant claims he had been abducted by two unknown persons, as he was in the process of going to buy narcotics from Jerome Hughes, and was accidentally shot in the cross fire. (See. R. Vol. IV p. 187-198). This overwhelming evidence of guilt clearly demonstrates that any alleged error on the part of defense counsel surely would not have effected the outcome of this trial.

Grounds one (1), two (2) and three (3) generally allege the same error surrounding the testimony of an eye witness, Christy Liggins. Defendant claims that Christy Liggins perjured herself when she identified Defendant in court, and Defendant cites Ms. Liggins testimony surrounding her inability to see the face of the injured individual fleeing the murder scene as evidence of this perjury. Defendant, in his own motion however, correctly points out that Ms. Liggins testified in deposition that she believed she had seen the injured individual previously at the apartment complex. Furthermore, DNA evidence confirms Ms. Liggins' identification. There is no legal requirement that a witness identify a person before trial, nor is there any case law to suggest that in court identifications are per se unduly suggestive and inadmissible absent a previous identification. Defense counsel thoroughly cross examined the Ms. Liggins about her ability to identify Defendant and nothing she testified to in trial was directly inconsistent with previous testimony. (See R. Vol. IV p. 51-60).

Ground four (4) alleges counsel failed to timely file a motion for new trial and properly argue the weight of the evidence ground. This is refuted by the record as the Court heard a motion for

new trial and considered the weight of the evidence in denying the motion for new trial. (See R. Vol. II p. 358 and 359).

Grounds five (5), six (6), seven (7), eight (8), and nine (9) all allege counsel failed to object to improper closing arguments. To begin, none of alleged improper arguments were in fact improper. The State merely made logical arguments from the evidence before the jury. Defendant sites no legal authority to suggest any of the alleged improper arguments were in fact improper. Even if these arguments were improper, there is nothing to suggest these arguments had any material effect on the outcome of this trial.

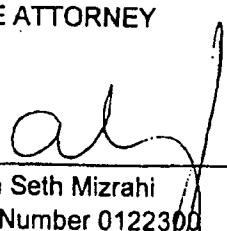
Ground ten (10) simply alleges that cumulative effect of counsel's failures deprived Defendant of a fair trial. For the reasons stated above this claim should be denied.

WHEREFORE, the State requests that the Defendant's Motion for Post Conviction Relief be DENIED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by Mail to Defendant, this 17 day of July, 2010

ANGELA B. COREY
STATE ATTORNEY

By: 

Alan Seth Mizrahi
Bar Number 0122300
Assistant State Attorney

1 Q When you conducted your autopsy originally
2 what was the victim wearing?

3 A On weight?

4 Q What was she wearing?

5 A Wearing, I'm sorry.

6 Q Yes, sir, I'm sorry.

7 A She was wearing a gray T-shirt, a light blue
8 sleeveless undershirt, a white brassiere, blue denim
9 shorts, pink panties.

10 Q What injuries did you observe on Jennifer
11 Gantt?

12 A And again if I may when I describe the
13 injuries I may be going both external and internal in
14 order to adequately describe them. But in short she
15 had nine gunshot wounds.

16 Q Were you able to determine what type of
17 ammunition would have been used to cause the injuries
18 on Miss Gannt?

19 A Only in the terms of how it affects the wound
20 and what some people refer to as wound ballistics. And
21 in this particular case whatever the caliber it was a
22 high velocity ammunition.

23 Q When you say high velocity, what type of
24 ammunition are you talking about?

25 A Well, as a projectile leaves the barrel and

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1 A Three, four months.
2 Q How badly were you injured?
3 A My stomach got blew out.
4 Q How many times were you shot?
5 A Four or five shots.
6 Q Where were you shot?
7 A Sir?
8 Q Where were you shot?
9 A In my back, blew out my stomach.
10 Q You're still suffering health problems
11 because of that?

12 A Yes, sir.

13 Q I saw you limping in here, does that have
14 anything to do with that?

15 A Yes, sir.

16 MR. MIZRAHI: That's all the questions I
17 have.

18 CROSS EXAMINATION

19 BY MR. FLETCHER:

20 Q Mr. Hughes?

21 A Yes, sir.

22 Q Mr. Hughes, before you were shot did you have
23 any arguments with Tarvares Watson?

24 A No, sir.

25 Q Did y'all have any fights?

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1 side, be to the south.

2 Q Was that on the third floor?

3 A It was.

4 Q Could you describe what you saw when you
5 first entered the apartment?

6 A As we entered the apartment my initial
7 observation was a very distinct odor of gun powder,
8 smelled like fire crackers had been set off. You could
9 still see the haze of smoke on the ceiling.

10 There was two victims in the apartment, one
11 male, one female, both had apparent gunshot wounds.

12 Q I'm going to show you what's been entered in
13 evidence as State's Exhibit 2?

14 JUROR: It's hard to see this.

15 THE COURT: Let me try the other set of
16 lights.

17 MR. MIZRAHI: I think part of the
18 problem is the projector bulb is weak.

19 THE COURT: Is that any better?

20 JUROR: Yes.

21 BY MS. HAZEL:

22 Q When you entered the apartment where did you
23 see the male victim?

24 A I was looking at the same view as the picture
25 that we're seeing now and he was laying kind of half

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1 in, half out of that doorway you see there where a
2 blood stain is on the carpet.

3 Q Was he in the area of the projector beam?

4 A Yes, that area.

5 Q And what was he doing?

6 A He was lying on the floor, appeared to be in
7 intense pain, he was -- had apparent gunshot wound to
8 the stomach area, he was actually holding his
9 intestines in his hand.

10 Q Was he able to talk to you?

11 A Yes.

12 Q What did he tell you about the shooting?

13 A Asked him who did it. He was able to tell
14 me, he told me he was asleep, he didn't see anything.

15 Q Was he able to tell you his name?

16 A Yes.

17 Q Was his name Jerome Hughes?

18 A It was.

19 Q You stated there was another victim in the
20 apartment?

21 A That's correct.

22 Q Where was she at?

23 A Just past the door to your left side, that
24 area where you're pointing.

25 Q Okay. And what did you notice about the

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1 Q Going back to State's Exhibit 6, and you took
2 two blood samples, State's Exhibit 28 and 29 from those
3 two places?

4 A I did.

5 Q You've had the opportunity to look at those?

6 A Yes, if you'll notice on those envelopes when
7 you look at them later on the back of them they are
8 sealed with my initials and ID number.

9 Q Turning now to the front door in State's
10 Exhibit 7, what's the purpose of this photograph,
11 detective?

12 A This is the front door of the victim's
13 apartment. Directly beside that mark is a shoe print.
14 It appeared that was a suspect's shoe from the force
15 that it was used to kick open the front door.

16 Q Turning now to State's Exhibit 8, is that
17 that same front door?

18 A It is.

19 Q Could you tell the jury what the placards
20 just generally are, what they symbolize?

21 A Number one is a live round. Number two would
22 be the door itself. Number three is a casing, I
23 believe. Number four is some -- a blood smear. And
24 number five is blood drops that was passive in nature.

25 Q And now, do you actually take close-ups of

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1 Q So you have some shots coming from the
2 bedroom door area and some back by the vanity bathroom?

3 A Correct. I have some shots that are coming
4 in from this direction (indicating) and some that are
5 coming in from this direction (indicating).

6 Q You indicated you collected every shell
7 casing and projectile you could find in that apartment?

8 A Correct.

9 Q Detective, beginning first with what's been
10 entered in evidence as State's Exhibit No. 31, are
11 these the 18 7 X 62 shell casings you recovered in that
12 apartment?

13 A They are.

14 Q Then showing the jury what's been entered in
15 evidence as State's Exhibit No. 32, are these the
16 fragments or projectiles that you also recovered?

17 A They are.

18 Q Now detective, all of those shell casings in
19 particular appear to be from the same type of gun?

20 A Correct.

21 Q You're not a firearms expert, we're going to
22 hear from him later, but they all appear to be the
23 sample?

24 A Correct.

25 Q Did you find two items that appeared to be

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1 live round you just spoke of. What else is seen in
2 Exhibit 10?

3 A This is the striker plate from the door jam
4 that was dislodged when the door was forced open.

5 Q And State's Exhibit 11 is again another
6 further close up?

7 A Correct. Again this shows the striker plate
8 here (indicating) and it shows live round here
9 (indicating).

10 Q And did you collect that live round?

11 A I did.

12 Q And did you take the same precautions that
13 you've described in terms of making sure that you're
14 not contaminating evidence?

15 A Correct. When we collect, whether DNA or any
16 evidence, we use clean gloves. It prevents our DNA or
17 our fingerprints from contaminating that item.

18 Q And State's Exhibit 30 is that live round
19 that you collected?

20 A It is.

21 Q Then we have further close-up of State's
22 Exhibit 12, that casing that you referenced?

23 A Correct.

24 Q State's Exhibit 13 is that blood smear?

25 A Yes.

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1 No. 18. Can you describe for the jury what they are
2 looking at in State's Exhibit 18?

3 A This is the victim. This is the foot end or
4 foot of the bed (indicating). The head of the bed is
5 this way (indicating).

6 There's a weapon laying here. You can see
7 some injury damage to the victim here. Along this wall
8 in this corner are two other long rifles or long
9 weapons. I believe one of them was a shotgun that had
10 a lot of debris stacked in front of them that had been
11 over time did not appear they were involved or used at
12 all. There's other evidence that these numbers here
13 would represent that will come up in a later
14 photograph.

15 Q Turning now to exhibit no. 20, is this an
16 aerial shot of what we just saw?

17 A It's an overhead view, kind of a hat, we use
18 a monopod, single pole attached to the bottom of the
19 camera, kind of gives us a downward view or bird's eye
20 view of the scene or the subject we're taking the
21 picture of.

22 Again you can see the weapon here
23 (indicating). You can see some bullet damage to the
24 wall as well as other wounds.

25 Q You also found shell casings in this area?

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1 A Correct, right over here in the corner
2 (indicating) is one shell casing that's laying there,
3 and I'm not sure where there are shell casings without
4 the markers that are there.

5 Q Sure, now, did you actually seize this 9mm
6 gun?

7 A I did.

8 Q It's been entered in evidence as State's
9 Exhibit 33, are these your markings on this box?

10 A Yes, they are.

11 MR. MIZRAHI: Your Honor, the bailiffs
12 have cleared and checked that gun to ensure
13 it's safe, there's a slip tie inside.

14 THE WITNESS: Could I say something as
15 far as the biohazard sticker?

16 BY MR. MIZRAHI:

17 Q Sure.

18 A Any of the evidence that you see, if it's
19 marked with biohazard, the contents are considered
20 biohazardous, if you're to touch them with a bare hand,
21 just for future reference.

22 Q Thank you. And all of the blood swabs are
23 actually contained within?

24 A Correct. The blood swabs as well as casings
25 are all contained within plastic, I don't believe the

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1 A I can see on my screen here.

2 Q Pointing here, what is that I'm circling in
3 this photograph?

4 A That would be a blood stain.

5 Q Was that there when you arrived?

6 A Yes.

7 Q Where was Moses Gannt when you first came
8 into contact with him?

9 A Standing next to the wooden stairwell in the
10 walkway there.

11 Q In this area?

12 A Yes.

13 Q Did he direct you into the apartment of 816?

14 A Yes, he did.

15 Q As you were going up the stairway did you
16 notice anything unusual?

17 A There was some blood spatter sprinkled up the
18 stairway.

19 Q When you got up to the apartment were you let
20 into the apartment?

21 A Yes.

22 Q Where was that apartment located in the
23 building?

24 A As you go up the stairwell it would be
25 looking at the picture here would be on your right-hand

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1 and made some mention about the female being his baby's
2 mama. They got into an argument and at that point him
3 and the female walked outside.

4 He said after they got outside he attempted
5 to get in the car and at that point the male subject
6 grabbed him and pulled him from the car. He said at
7 that point he began running and at some point he felt
8 something warm or hot on his arm and he believed at
9 that point he most likely had gotten shot.

10 Q Did you immediately notice there was anything
11 wrong or strange about the defendant's story?

12 A Well, I did when he indicated that he was at
13 a club on the south end of Brunswick that had a large
14 cement type parking lot. We have no clubs in Brunswick
15 that have a large cement type parking lot.

16 Also he indicated to me later on that he had
17 been shot in a different location which seemed to be
18 strange.

19 Q Could you tell the jury about his second
20 story to you?

21 A Well, he had indicated after a brief pause
22 with the nurse treating him, that he had actually been
23 shot at another location, he said he had been shot at a
24 traffic light somewhere in Brunswick.

25 I asked him to indicate or describe what the

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1 area looked like. And the only thing he could tell me
2 was it was hazy, he couldn't really describe it.

3 I indicated to him at that point that he had
4 told me he had been shot somewhere else previously.

5 Q Did he tell you anything about the shooting
6 as far as did he tell you whether or not he was robbed?

7 A Yes, he said that he was robbed, I believe it
8 was \$500 and his cell phone.

9 Q Did you try to get some description of his
10 cell phone and cell phone number?

11 A I did, he could not provide a description of
12 the cell phone, the number or a serial number for the
13 cell phone.

14 Q Did he actually give you an address where his
15 grandfather lived in Yulee?

16 A Yes, I believe he did.

17 Q Did you attempt to follow up with that
18 address at all?

19 A I did. I tried to Map Quest it to see if I
20 could locate it and it did not come up on Map Quest.

21 Q In the course of your investigation did you
22 collect anything from the defendant?

23 A I did. I collected his clothes as well as a
24 four by four gauze with the known blood of the
25 defendant.

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1 Q Did you find female DNA?

2 A Yes.

3 Q Did you receive any known profile of female
4 DNA to test for?

5 A I did not.

6 Q Did you also, and I want to turn your
7 attention to two items that you tested that were
8 outside of the lab, specifically items 28 and 29, which
9 28 would be your exhibit 40 C and 29 would be your
10 exhibit 40. These are two blood swabs that were taken
11 from the stairs. Did you perform DNA analysis on those
12 two items?

13 A Yes, I did.

14 Q And whose did -- whose blood is that in those
15 two items?

16 A 40 C and D matched Jerome Hughes.

17 Q And you received of a known sample from
18 Jerome Hughes?

19 A Yes, I did.

20 Q Now, you spoke briefly about touch DNA, did
21 you examine any items in this case for touch DNA?

22 A Yes, I did.

23 Q I'm showing you what's been entered in
24 evidence as State's Exhibit 30, and this is your
25 exhibit number 1. Is that the item you looked at for

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1 touch DNA?

2 A It is one of them, yes.

3 Q Did you see anything that indicated there was
4 any blood on this item?

5 A I did not.

6 Q So explain to the jury how you go about
7 examining this item for touch DNA?

8 A When a sample like this comes in, the first
9 thing I do is look to see if there would be indications
10 of blood or other body fluid biological material.
11 Example in a blood stain would be what I would refer to
12 as reddish brown staining. There was none of that
13 present on here.

14 After talking with the detectives I knew they
15 wanted to see if they could determine who handled it.
16 So at that point all I did was just swab the entire
17 thing, the entire round with wet swab. And then I
18 tested that swab for DNA. There's no test that I have
19 to identify cells or no chemical test that I can do to
20 say if that item had been touched or if there is DNA
21 present on it, I just have to take it through DNA and
22 see what I get.

23 Q And were you able to find DNA on that live
24 round?

25 A Yes, I was.

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1 Q And was it a full profile?

2 A It was not. It was a partial profile, so I
3 did not obtain results at all 13 of the markers.

4 Q How many -- so how many results did you
5 obtain?

6 A I got seven markers plus the gender marker
7 for a total of eight.

8 Q Was any of the DNA that you found on that
9 live round inconsistent with the known sample from
10 Tarvares Watson?

11 A Comparing the gender marker and the seven
12 markers that I got results at they matched Tarvares
13 Watson.

14 Q We'll talk a little bit more about that when
15 we get your DNA chart.

16 Were you also able to obtain several full
17 profiles from actual blood swabs taken?

18 A Yes.

19 Q First is exhibit what you call 40 A which is
20 State's Exhibit 27, were you able to obtain a full
21 profile from that blood swabbing?

22 A Yes, I was.

23 Q Were you able to obtain a full profile from
24 what you call exhibit 38 which is State's 25?

25 A Yes.

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1 Q Were you able to obtain a full profile from
2 State's 26 which you call exhibit 39?

3 A Yes.

4 Q Were you -- was a full profile on all three
5 of those items?

6 A That's correct.

7 Q And whose profile did you find in all three
8 of those items?

9 A It matched Mr. Watson.

10 Q At all 13 loci?

11 A Yes.

12 Q Now, have you prepared a chart that will help
13 the jury explain what we mean by partial profile and
14 full?

15 A Yes.

16 Q This is State's Exhibit 50. Miss Lee, if you
17 could kind of explain to the jury beginning with what
18 DNA location is and explain this chart to them.

19 A The first of the four columns that's labeled
20 DNA location, which is this column here (indicating),
21 that is the -- a list of the 13 markers that I looked
22 at plus the gender marker Amelogenin.

23 Q So each one of those numbers D3S1358 is a
24 location or point on the DNA that you're looking at?

25 A That's correct.

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1 Q And then as the chart goes along there is
2 corresponding -- two corresponding numbers to each one
3 of those locations?

4 A That's correct.

5 Q Explain that to the jury.

6 A The reason there are two is because you
7 inherit half of your DNA from your mother and half of
8 your DNA from your father. So the two numbers indicate
9 what you got from your parents. Without having your
10 parent's profile I can't tell you which came from who.

11 If we look at the second column, which is
12 labeled live round, and look at the first row D3S1358
13 we can see the live round had profile of 15, 16. This
14 just means that the donor of this sample inherited a 15
15 from one parent and a 16 from another parent.

16 Q Now, the blood and the live round, those are
17 the numbers corresponding to the live round the numbers
18 as you go below the live round?

19 A That's correct.

20 Q And then the blood swabs, those are all three
21 of the blood swabs?

22 A That's correct.

23 Q Because they are the same numbers for each
24 one?

25 A That's correct, same profile.

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1 Q And all the blood swab number matched all the
2 numbers for the defendant which is the known sample?

3 A Yes.

4 Q Explain for the jury the specific items,
5 like, for example, under the third location FGA, what
6 does NSD mean?

7 A Looking at the live round there's one, two,
8 three, four, five areas that I have labeled as NSD and
9 that stands for no size data. That just means I was
10 not able to obtain any DNA profile at those areas.

11 There's also another marker which is labeled
12 INC at D21S11, this means inconclusive. That means
13 that the DNA that I obtained at that marker appeared to
14 be incomplete. It could be several reasons why it's
15 inconclusive, but when comparing this profile to a
16 known sample I would not look at that marker because it
17 is inconclusive, I can't make any conclusion off of it
18 so I'm not going to compare it to any person.

19 Q So the NSD basically means at that particular
20 location you didn't have any amplifiable DNA you could
21 talk about?

22 A That's correct.

23 Q Incomplete means there was something there
24 but it was not enough to make a call?

25 A For some reason it didn't meet our guidelines

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1 that are set in place with FDLE to be called or to be
2 able to be compared.

3 Q Is there anything about the NSD, no size
4 data, or incomplete column that would exclude the
5 defendant as being a donor of that DNA?

6 A No. If there was something that did exclude
7 a standard or a sample, I would use that information to
8 exclude. But I would not use that information to
9 include.

10 Q Now, we can see that the blood swabs and the
11 defendant actually matched every single number, is that
12 correct, every single loci it's a full match?

13 A Yes.

14 Q But for the live round there's not a full
15 match. Is there some way using statistics and using
16 databases that you're able to formulate meaning, in
17 other words, give the jury an idea of how rare the
18 profile is on the live round, is there some way you can
19 do that?

20 A Yes. The -- when I have a match I will
21 prepare a statistic. And this is just to give you an
22 idea of how rare or how not rare a profile is.

23 When I do the calculations it doesn't make a
24 difference if it's only one marker that I got results
25 at that matches or if it's all 13. I'll calculate the

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1 statistic just to give you an idea of how rare, how
2 common that profile is.

3 Q And were you able to perform a calculation as
4 to that seven loci match on the live round?

5 A Yes.

6 Q Please explain to the jury what your results
7 were?

8 A Just reading from my report the frequency of
9 occurrence of profile obtained from Exhibit 1, which is
10 this live round, unrelated individuals in the following
11 population it's approximately one in 23 million
12 Caucasian, one in three and a half million African
13 Americans, and one in 15 million Southeastern
14 Hispanics.

15 Q Why is it different among different racial
16 groups?

17 A There's just some variability between what
18 common markers are inherited from your parents.

19 Q The group of African Americans, what was that
20 number again?

21 A Three and a half million.

22 Q Now, I want to make sure that the jury
23 understands about DNA. You said the only people that
24 have the same DNA at these particular loci are
25 identical twins?

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1 A That's correct.

2 Q And that's been confirmed through scientific
3 research?

4 A That's correct.

5 Q Is this form of DNA testing relied upon in
6 the scientific community?

7 A Yes.

8 Q Obviously the numbers for the blood swabs
9 versus the defendants are far greater because you have
10 more information?

11 A That's correct.

12 Q And did you develop numbers as to the blood
13 swabs?

14 A Yes, I did.

15 Q What were those numbers?

16 A The numbers for the -- what we refer to as
17 blood swabs are one in 3.7 quadrillion Caucasian, one
18 in 620 trillion African Americans and one in 3
19 quadrillion in Southeastern Hispanic population.

20 Q You assign numbers even though we have a full
21 match?

22 A Yes.

23 Q Now, roughly what is the population of the
24 city of Jacksonville roughly?

25 A The city of Jacksonville at the last sensuous

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1 was about 750,000.

2 Q And what is the population of the earth?

3 A It's estimated right now to be about 6 and a
4 half billion.

5 Q And the number for African Americans as to
6 the blood swab profile was what again?

7 A For the blood swabs it was 620 trillion.

8 Q Trillion being more than billion?

9 A Yes.

10 MR. MIZRAHI: Your Honor, that's all the
11 questions I have.

12 MR. FLETCHER: No cross, judge.

13 THE COURT: Okay. Thank you, Miss Lee,
14 step down, you are excused.

15 (Witness excused.)

16 MR. MIZRAHI: Call Detective Stucki.

17 THE COURT: Detective Stucki, please.
18 Detective Stucki, if you'll come in and be
19 sworn in by the clerk, please.

20 (Sworn in).

21 THE COURT: If you'll take a seat on the
22 witness stand, make yourself comfortable,
23 please.

24 Ask you to speak right into that
25 microphone so we can hear you without you

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1 A I'm going to say with a month and a half.

2 Q And then when you saw him tell the jury about
3 that instance?

4 A Well, at the time the only reason I saw him
5 was because he had a cell phone that he could only get
6 minutes at the store that in the neighborhood where he
7 was staying with us because he couldn't buy a phone
8 card, they had to call it in and put the minutes on the
9 phone. So he was doing that. And I just happen to be
10 up at the store and I seen him with his arm in a sling.
11 And I asked him what happened to his arm. He said it
12 was a motorcycle accident. But prior to that I had a
13 friend just was in a motorcycle accident and he didn't
14 have -- he didn't have -- I mean, it just didn't look
15 like a motorcycle accident, he had no scratches, no
16 scars, just a cast, not even a cast, just a sling. And
17 I thought that was weird.

18 Q What else did you think was weird during this
19 conversation with the defendant?

20 A Well, all three of them -- he was with two of
21 his buddies and they were pretty nervous at the time.
22 So you know, I got suspicious. I told my mama to call
23 the detective that she had been staying in contact with
24 and she did.

25 Q Did you bring up your brother's shooting

Official Reporters, Inc.

1 Q And did Mr. Watson freely and voluntarily
2 agree to speak to you?

3 A Yes.

4 Q Have you had the occasion to review the video
5 which is State's Exhibit 51 in my office?

6 A Yes, I have.

7 MR. MIZRAHI: Your Honor, at this time
8 may I publish State's 51?

9 THE COURT: Any objections?

10 MR. FLETCHER: No, judge.

11 THE COURT: Okay.

12 (Playing video).

13 Tarvares, once again I'm Detective
14 Stucki, this is Detective (inaudible) from
15 Jacksonville.

16 All right. I'm going to tell you a
17 little bit about what's going on. Usually
18 you know, I'll be straight up with you, you
19 know I'll be honest. A lot of times we'll
20 come in and we'll try to play games with
21 people to try to trick people into saying
22 things and stuff like that, however, we've
23 been working on a case since last July. Your
24 name has come in that you've been implicated
25 and we have obtained a warrant for you on

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1 that case and I'd like to talk to you about
2 it.

3 All right. Prior to that I need to read
4 you your constitutional rights. Okay. I'm
5 going to read them from a form that -- I
6 forgot my form from Jacksonville, so we got
7 one from these guys.

8 Before we get into that, however,
9 though, got a couple of questions for you,
10 simple kind of biographical questions. Can
11 you read and write?

12 (Nods) yes, sir.

13 How far did you go in school?

14 (Inaudible). Graduated. (Nods.)

15 Where did you graduate from?

16 (Inaudible) got gave me CT test.

17 So you got your GED and stuff?

18 (Inaudible).

19 Do you need glasses or do you wear
20 contacts or anything?

21 (Nods.)

22 Have you ever been treated for any
23 mental illness by a doctor? Like has a
24 doctor ever told you you were nuts or
25 anything?

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1 (Nods.)

2 As you are sitting here right now in
3 this room are you under the influence of any
4 alcohol or drugs?

5 (Shakes head.)

6 No? Okay. Read that top line right
7 there out loud to me, number one.

8 You have the right -- right to remain
9 silent.

10 Okay. I'm going to read the rest, you
11 follow along while I point to them. Okay.
12 Anything you say can be used against you in a
13 court of law.

14 You have the right to talk to a lawyer
15 and have him present with you while you are
16 being questioned.

17 If you cannot afford to hire a lawyer
18 one will be appointed to represent you before
19 any questioning if you wish.

20 Do you understand what I just read to
21 you?

22 (Nods.)

23 Okay. Understanding those rights let me
24 get you just to sign right beside it cause
25 that's not our form, all you're signing is

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1 that you understand your constitutional
2 rights. Just over here in this area right
3 here, I guess.

4 What time is it? 10:05. I'm just
5 putting the date on there and the time.

6 Sign where it says witness.

7 Tarvares, you know what case I'm talking
8 about? I'm going to ask you straight up, do
9 you know what this is about without me having
10 to tell you?

11 (Inaudible) homicide.

12 What are you doing in Colorado?

13 Man, I ask myself that a lot of times.

14 You got any people out here?

15 Couple friends and stuff.

16 So you knew somebody, you just didn't,
17 like, stroll out here and try to make a
18 living?

19 No.

20 You knew somebody. How long have you
21 been out here?

22 Probably about a year and a half,
23 something like that.

24 Was that before or after Wisconsin?

25 Probably after.

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1 Did you ever go to LA?

2 LA? No. (Inaudible) I know girl in

3 Wisconsin. (Inaudible).

4 You talk to her lately?

5 Got hooked up in a mess out there.

6 (Inaudible) what kind of mess?

7 I forget what it is. Robbery or

8 something.

9 Really? So she's all messed up?

10 (Inaudible).

11 Tarvares, July of last year, July 14th,

12 on Monument Road there was a shooting. You

13 know anything about that shooting?

14 (Inaudible) I was like going over to my

15 step brother's house (inaudible) and I was

16 going over there to buy some narcotics and I

17 got in the car, I was suppose approached by

18 two people and (inaudible) and I walked up

19 the steps and they told me to. And then they

20 had me kick in the door and stuff. And

21 (inaudible) I had got shot, there was a shoot

22 out, I had took off. After that it was dark

23 and that's all, I didn't see nothing.

24 Then you called the police and stated

25 you had been kidnapped and shot.

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1 I didn't call the police.
2 What did you do?
3 Man, I just took myself to the hospital.
4 Man, I was just like, man (inaudible).
5 What hospital did you go to?
6 Brunswick.
7 Who is that? Come on, who is that of?
8 That's me.
9 I know it's you. You know July 14th,
10 2005, today is October 24th, 2006, Tarvares,
11 well, Tarvares Watson also known as Tony
12 Williams also known as Tyrone, what's the
13 last name you used; Calhoone?
14 Yeah.
15 Now is that Tyrone Calhoone from
16 Jacksonville?
17 Uh-huh.
18 Big Tyrone? We pulled a picture, said,
19 man, what was Tarvares thinking, man. That
20 guy weighed 350 pounds or something. Anyway.
21 It's been a year and a half, man, you've been
22 looking over your shoulders, you've been
23 thinking to yourself, man, I know eventually
24 it's going to catch up with me and I need to
25 have a good story. Guess what? Two guys at

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1 the bottom of the steps, forcing you up into
2 Jerome's house and you just happen to get
3 mixed up in a shooting didn't happen. Okay.

4 In addition to trying to track you down
5 for a year and a half we've been working,
6 Florida Department of Law Enforcement has
7 been working evidence in DNA, in bullet
8 trajectory and all of that stuff. We know
9 your story isn't true, so why don't you save
10 us the time, why don't you save yourself the
11 heart ache and just tell us what the hell
12 happen.

13 I just did.

14 No. You don't think after all those
15 gunshots that people that live in that
16 apartment complex weren't looking out their
17 windows?

18 Yeah.

19 Yeah. (Inaudible) looking out the
20 window. I know I would have.

21 I know you would have. You don't think
22 that those people saw you run back to the car
23 and jump in the car with your partner and
24 hall ass out of there?

25 I don't know.

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1 You don't think that all matches up with
2 the evidence at the scene?

3 (Inaudible) what nobody else saw.

4 I know you can't. Because (inaudible)
5 ran to Brunswick and you used a fake name and
6 said you got shot up there. Now, you've got
7 a GED from JMI and you seem like a well
8 spoken young man. And you know, I don't care
9 what your involvement or what you were
10 involved in prior to this, I guarantee you
11 one thing, if you would have gone to your
12 cousin's house to buy some dope, just
13 straight up dope deal, I know he's got some
14 weed, either powder or whatever. And two
15 guys kidnap you come up with guns, force you
16 up, not only do you get shot, but the other
17 people in the apartment get shot. Anybody, I
18 don't care what kind of background they have
19 they're not going to run to Brunswick,
20 Georgia, and give a story and lie about the
21 whole thing. They're going to run to a damn
22 pay phone and say, hey, I just got shot and
23 can somebody go to this apartment because I
24 think my cousin also would have been shot, my
25 step brother. Well, your step brother. You

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1 see, it just don't make sense, man.

2 (Inaudible) that's not going to know,
3 man. It ain't going to know.

4 And the fact of the matter is when we
5 first sat down here I told you normally I'll
6 sit in here and try to trick people to get
7 people to tell me the story and everything,
8 but I'm telling you straight up, honestly, I
9 don't -- it doesn't affect me if you tell me
10 the truth or not because I know the truth.

11 City of Jacksonville didn't spend all that
12 money to fly two detectives all the way to
13 Colorado Springs, Colorado, if we didn't have
14 a good case. Judge wouldn't sign a warrant
15 for your arrest if we didn't have a good
16 case.

17 Okay. What we want to do is give you
18 the opportunity to just tell us the truth,
19 man. You know I know you're here and I know
20 you guys don't trust the police but it's in
21 your best damn interest to sit here and try
22 to sell that story you just told us, when we
23 go back to Jacksonville we tell the State
24 prosecutor that's your story, when we tell
25 our bosses that's your story. There's one

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1 person in this room you need to be concerned
2 about right now. Who you think that is?

3 Me.

4 Yeah. (Inaudible) stupid. You don't
5 need to be concerned about us, you don't need
6 to be concerned about our charges, you don't
7 need to be concerned about your step brother,
8 you don't need to be concerned about your
9 partner, cause you're the one that's going to
10 be toted back eventually to Jacksonville and
11 charged with murder. All you can do is help
12 yourself, man. I mean, there's a big
13 difference believe me -- there's a big
14 difference in the eyes of everybody of a cold
15 blooded killing and then something that just
16 went bad, something that just kicked off,
17 wasn't suppose to go that way. You see what
18 I'm saying? There's a big difference.

19 The way it looks right now it looks like
20 you, your partner, went in the apartment and
21 executed somebody. So what is it going to
22 be, man?

23 (Inaudible) Jacksonville probably on the
24 31st, I guess.

25 They're going to send some other guys

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1 out to get you. We've got a whole group of
2 people that do that. Warrant section,
3 fugitive section, they're the ones that deal
4 with that. We're flying back to Jacksonville
5 tomorrow, it's too cold out here for us.

6 Have you talked to your family since
7 you've been here? Have you called?

8 (Shakes head.)

9 Are you going to call them?

10 (Inaudible).

11 I'll call them for you.

12 You'll called them for me?

13 No, no, no, I haven't called them yet,
14 I'll call them when I get home tomorrow. Who
15 do you want me to call?

16 (Inaudible).

17 Let her know where you're at?

18 (Nods.)

19 Cause you're probably going to be here
20 until next week, I think the 31st.

21 (Inaudible).

22 At least. At least.

23 (Inaudible) no.

24 Cause once you sign the paper work then
25 they send it to Jacksonville, and

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1 Jacksonville has got to send some people out
2 here to get you. And they're not going to
3 pay the money that they paid for us to come
4 out and talk to you, they're going to do
5 advanced tickets, seven days out, so you're
6 probably here for another two weeks.

7 So what's it going to be, Tarvares?
8 (Shakes head.) I told you (inaudible).
9 (End of video).

10 MR. MIZRAHI: Your Honor, that's all the
11 questions I have.

12 THE COURT: Thank you, sir. Mr.
13 Fletcher, cross examination.

14 CROSS EXAMINATION

15 BY MR. FLETCHER:

16 Q Good afternoon, Detective Stucki.

17 A Good afternoon.

18 Q How you doing?

19 A I'm going good.

20 Q Detective, throughout this investigation were
21 you ever able to determine whether or not Mr. Watson
22 had any motive at all to do this?

23 A Any direct knowledge, no.

24 Q Yes, sir. As far as your investigation
25 uncovered he was on good terms with Jerome Hughes?

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CROSS EXAMINATION

1 BY MR. FLETCHER:

2 Q Good afternoon, Miss Liggins, how you doing
3 today?

4 A I'm fine.

5 Q Miss Liggins, before you heard the gunshots,
6 I take it that woke you up?

7 A Yes.

8 Q And was this at about 5:00 in the morning?

9 A 5:00 something, yes.

10 Q And describe your apartment for me, is it one
11 bedroom or two bedroom?

12 A It's one bedroom.

13 Q And you were not sleeping in the bedroom?

14 A No.

15 Q You were sleeping on the couch?

16 A Yes.

17 Q And your roommate was sleeping on the couch?

18 A Yes.

19 Q Was that a second couch in the living room?

20 A Yes.

21 Q How come you did not go to sleep in your
22 bedroom that night?23 A Okay. Well, I had not too long ago moved in
24 with her and it was her apartment. So she normally

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1 sleeps in the room and I sleep in the living room on
2 the couch, that's my normal sleeping area where I was
3 that night. We were both sitting in the living room
4 watching TV before we went to sleep that night and
5 that's why we were both in the living room.

6 Q So you heard the gunshots and then you looked
7 out the window, is that right?

8 A Yes.

9 Q And that's when you saw the first person come
10 down the stairs?

11 A Yes.

12 Q And you say you've seen that person before?

13 A Yes.

14 Q Are you saying that just you recognize his
15 body shape or do you recognize his face?

16 A Because I recognize his body shape and the
17 car.

18 Q Okay. So you never saw his face?

19 A I saw -- I couldn't describe him to a tee,
20 but I did see his face, I did see the outline, the
21 shape and his body, I physically saw him, yes.

22 Q Did he look back at you?

23 A No, he didn't.

24 Q So how did you see his face?

25 A When you come down the stairs I could see

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1 half of your face from the window that I was looking
2 out maybe five stairs up, I can see anybody who comes
3 down those stairs from that bedroom window.

4 Q So the stairs that we all saw see in that
5 picture, they're not -- do they extend pass that brick
6 wall?

7 A A little bit, yes.

8 Q How many stairs?

9 A I'm not -- can't be exact, can't be exact on
10 that, it's been two years since I lived there.

11 MR. FLETCHER: Judge, can I move around?

12 THE COURT: Sure.

13 BY MR. FLETCHER:

14 Q Miss Liggins, you're looking out this window
15 here? (Indicating.)

16 A Yes.

17 Q And there's a light right here?

18 (Indicating.)

19 A Uh-huh.

20 Q Is that a bright light?

21 A Not that bright, maybe comes on at night.

22 Q But it shines back at you as well as this
23 way, right? (Indicating.)

24 A Yes.

25 Q And as you're looking out the window you're

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1 looking into light, right, because that light's right
2 there by your window, right?

3 A Not looking -- no, it's not that bright to
4 where when I look out the window I have to look into
5 light.

6 Q Okay. Now, after the first person gets in
7 the car, at this point had your roommate woken up yet?

8 A Yes, after I heard the shots, I saw the guy,
9 I ran -- I did just like this (indicating) because I
10 didn't have to move much, she was right there. And she
11 got up and we both looked out the window and that's
12 when we saw him run.

13 Q Okay. If you can tell me real quick what
14 kind of a blind did you have on that window? This
15 picture was taken that day, right?

16 A Uh-huh, same blinds.

17 Q What kind of blind is that?

18 A Just regular apartment blinds that you -- the
19 apartment complex, I guess, I'm not a blind expert.

20 Q Are they the kind of blinds you pull open?

21 A No, those were just like the ones you lift up
22 or wind.

23 Q And they're closed right now in this
24 photograph?

25 A Uh-huh.

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1 Q How did you look out the window?

2 A I moved the blinds.

3 Q You just pulled one of them down?

4 A No, I pulled them down, can't be exact on how
5 many I pulled down, but I looked out the window.

6 Q Okay. Now, you look out the window, you see
7 the first person get in the car, right?

8 A Uh-huh.

9 Q Then you take your hands off those blinds and
10 then you can't see back out and you go and wake up your
11 roommate?

12 A Exactly.

13 Q So there's a period of time when the time
14 that the first person gets in the car and the next
15 person gets in the car where you're not able to look
16 out that window, right?

17 A Um-hum.

18 Q How long did the person who got in on the
19 passenger side of the car stand out in front of the car
20 before he got in?

21 A I'm not sure. I know when I seen him walk
22 down the stairs and he walked to the car, once he made
23 it to the other side of the car to get into it, I
24 cannot see him on the other side of the car, they were
25 backed in. I could see the driver's side but once it

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1 got to the passenger's side I couldn't see him
2 physically get in the car but I did see him run to the
3 car.

4 Q Well, could you see his face over the roof?

5 A No.

6 Q Was it a really tall car?

7 A No.

8 Q Were you looking?

9 A Yeah.

10 Q Well, how could you not see him?

11 A I couldn't see him get into the car because
12 when the car is backed into the driveway there's no way
13 I can see on the other side of the car in my apartment
14 complex. If I was standing outside I would be able to
15 see him get in the car but his car was backed in so the
16 driver's side was on my window side.

17 Q Okay. So from your view over here you can
18 clearly see somebody getting in on the driver's side
19 here, right?

20 A Yes.

21 Q And presuming it's a sedan and it's so high
22 you couldn't see over the sedan, the top of the sedan?

23 A Well, they wasn't exactly parked in front of
24 the stairs, they were parked more toward the tree.
25 They weren't exactly parked in front of the stairs nor

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1 were they parked in front of the window. If they were
2 parked directly in front of the window I would have
3 been able to see both of them.

4 Q Okay. So your view of this person really was
5 a quick shot?

6 A Yes.

7 Q Because once he gets in the car you can't see
8 him any more?

9 A Exactly.

10 Q And was it dark outside or --

11 A Yes, it was dark.

12 Q And that pile of trash that you see there?

13 A Uh-huh.

14 Q Was the car backed up onto the trash or was
15 it farther out?

16 A Well, that wouldn't be able to answer.

17 Because I wasn't really looking down on the ground,
18 when I was looking out the window I was trying to pay
19 attention to actually who was who, so I really wasn't
20 paying attention to the things on the ground.

21 Q Could you tell if the person got into the
22 passenger side front or the back?

23 A I'm thinking that he went to the front
24 because he had pulled up a little bit so I was able to
25 see him get into the car but I wasn't able to see him.

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1 I know that he got into the car, but I wasn't actually
2 able to see him or if the door was open or if the door
3 was closed, I wasn't actually able to see that.

4 Q Okay. So you couldn't see the passenger side
5 door regardless?

6 A Exactly.

7 MR. FLETCHER: Thank you, ma'am.

8 THE COURT: Thank you. Any redirect?

9 MR. MIZRAHI: Couple questions.

10 REDIRECT EXAMINATION

11 BY MR. MIZRAHI:

12 Q Miss Liggins, you indicated that the person
13 that was injured was actually HUNCHEO over, did you
14 describe it like that?

15 A Yes.

16 Q Miss Liggins, did you want to become involved
17 in this case?

18 A No.

19 Q Tell the jury about what you and your
20 roommate discussed after watching all this?

21 A I just said, well, Erica, I'm not opening the
22 door when the police come. She said, me neither. And
23 I was just like I'm scared, I don't know what to do.
24 She was, like, well, I'm not saying nothing. And I
25 was, like, well, I'm not either. So we didn't say

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1 anything.

2 And when the police came AND knocked on the
3 door we didn't open the door that night. And the next
4 day I was coming home from school actually and I saw a
5 police officer outside and, you know, I was just like,
6 hey, this is what I saw briefly. And he act like he
7 wasn't really paying attention or really mattered what
8 I said but he wrote it down anyway.

9 And then I hadn't heard anything else about
10 it, I thought it was all over.

11 Q Did you know -- or were you close friends
12 with Jerome Hughes?

13 A Not -- I wouldn't say close friends, no.

14 Q You knew he lived there?

15 A Yeah, I knew him that much.

16 Q And Jennifer Gantt, was she A close personal
17 friend or anything like that?

18 A No.

19 MR. MIZRAHI: That's all the questions I
20 have.

21 MR. FLETCHER: Just real quick.

22 RECROSS EXAMINATION

23 BY MR. FLETCHER:

24 Q Miss Liggins, did you watch the police
25 officer write down what you were saying?

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1 A I saw him writing but I have no clue what he
2 wrote, I couldn't tell you what he wrote because he was
3 in the car writing and I was standing outside the car,
4 me just standing there I couldn't see what he was
5 writing but I did see him writing.

6 Q Did he ever indicate to you that you had said
7 that you saw the person with a handgun and not an
8 AK-47?

9 A No, he didn't say anything to me. He was
10 like, okay, I've got it all written down, thank you,
11 and I walked away.

12 MR. FLETCHER: Thanks.

13 MR. MIZRAHI: That is it.

14 THE COURT: Okay. Thank you. Miss
15 Liggins. Can she be excused?

16 MR. MIZRAHI: Yes, Your Honor.

17 THE COURT: Thank you, Miss Liggins, you
18 can step down, you are excused. Thank you
19 very much.

20 (Witness excused.)

21 THE COURT: Next witness.

22 MS. HAZEL: Your Honor, State will call
23 Detective Harrell.

24 THE COURT: Detective Harrell, please.
25 If you'll come all the way up front, please,

Official Reporters, Inc.

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT, IN
AND FOR DUVAL COUNTY, FLORIDA

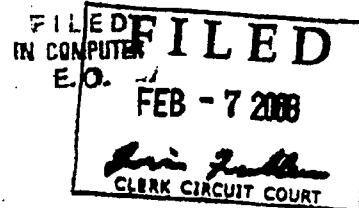
CASE NO.: 16-2006-CF-16774-AXXX-MA

DIVISION: CR-F

STATE OF FLORIDA

VS.
TARVARES WATSON

Denied
J.P. Fletcher



MOTION FOR NEW TRIAL

Defendant, Tarvares Watson, through his undersigned attorney, W. Charles Fletcher, pursuant to Rules 3.580, 3.590 and 3.600, Florida Rules of Criminal Procedure respectfully requests this Honorable Court to grant a new trial in the above-styled cause. Defendant states the following grounds for this motion:

1. This Court erred in not granting Defendant's Motion for Judgment of Acquittal made at the close of the State's case.
2. This Court erred in not granting Defendant's Motion for Judgment of Acquittal made at the close of all the evidence.
3. The verdict is contrary to the weight of the evidence.
4. The verdict is contrary to the law.

000358

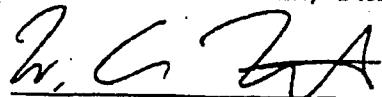
Motion for New Trial

Page 2

WHEREFORE, Defendant respectfully requests this Honorable Court to grant a new trial for the reasons cited herein.

Respectfully submitted, this 7th day of February 2008.

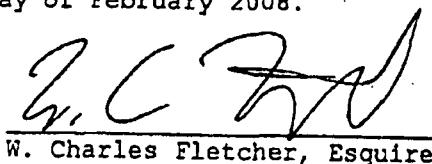
SELINGER & FLETCHER, P.A.



W. Charles Fletcher, Esquire
Florida Bar No.: 0125792
Selinger & Fletcher, P.A.
Blackstone Building
233 East Bay Street, Suite 1020
Jacksonville, Florida 32202
Tel: (904) 598-0900
Fax: (904) 598-0905
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing Motion for New Trial has been furnished to the Office of the State Attorney, by hand, this 7th day of February 2008.



W. Charles Fletcher, Esquire

000359

M A N D A T E

From

DISTRICT COURT OF APPEAL OF FLORIDA

FIRST DISTRICT

To the Honorable Judges of the Circuit Court for Duval County

WHEREAS, in the certain cause filed in this Court styled:

TARVARES WATSON

Case No : 1D10-5108

v.

Lower Tribunal Case No : 16-2006-CF-16774

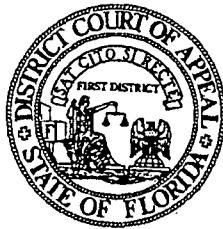
STATE OF FLORIDA

The attached opinion was issued on December 8, 2010.

YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with said opinion, the rules of Court, and the laws of the State of Florida.

WITNESS the Honorable Robert T. Benton, II, Chief Judge
of the District Court of Appeal of Florida, First District,
and the Seal of said Court done at Tallahassee, Florida,

on this 1st day of February 2011.



Jon S. Wheeler

JON S. WHEELER, Clerk
District Court of Appeal of Florida, First District

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

TARVARES WATSON,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D10-5108

STATE OF FLORIDA,

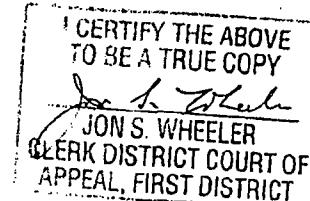
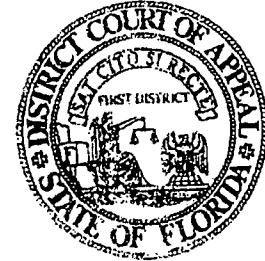
Appellee.

Opinion filed December 8, 2010.

An appeal from the Circuit Court for Duval County.
L. P. Haddock, Judge.

Tarvares Watson, pro se, Appellant.

Bill McCollum, Attorney General, Tallahassee, for Appellee.



PER CURIAM.

AFFIRMED.

VAN NORTWICK, LEWIS, and ROBERTS, JJ., CONCUR.

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 16-2006-CF-16774-AXXX-MA

DIVISION: CR-F

STATE OF FLORIDA,

v.

TAVARES JAMES WATSON,
Defendant.

FILED
COMPUTER
E.O.

**ORDER DENYING DEFENDANT'S "SECOND MOTION FOR POSTCONVICTION
RELIEF"**

This matter came before the Court on Defendant's "Second Motion for Postconviction Relief" (the "Instant Motion"), filed pursuant to Florida Rule of Criminal Procedure 3.850 on February 4, 2011.

On February 7, 2008, following a jury trial, Defendant was convicted of Murder in the First Degree (Count I), Armed Burglary with a Battery (Count II), and Attempted Murder in the First Degree (Count III), and was sentenced to three (3) consecutive terms of life imprisonment.¹ (Exhibit "A.") Defendant's convictions and sentences were affirmed by the First District Court of Appeal through a Mandate issued September 8, 2009. (Exhibit "B.")

On June 7, 2010, Defendant filed his first motion for post conviction relief pursuant to Florida Rule of Criminal Procedure 3.850, which this Court denied on its merits in an Order dated August 3, 2010. (Exhibit "C.") This Court's Order denying Defendant's first motion was affirmed by the First District Court of Appeal through a Mandate issued February 1, 2011.

¹ Defendant was also convicted of Attempted Felony Murder, but this count was vacated and set aside by this Court as Defendant could not be convicted of both Attempted First Degree Murder and Attempted Felony Murder.

(Exhibit "D.")

As an initial matter, the Court notes that the instant Motion is successive in that Defendant previously filed a 3.850 motion alleging ineffective assistance of counsel, which this Court denied on its merits and which was affirmed on appeal. (Exhibits "C," "D.") Pursuant to Florida Rule of Criminal Procedure 3.850(f):

[a] second or successive motion may be dismissed if the judge finds that it fails to allege new or different grounds for relief and the prior determination was on the merits or, if new and different grounds are alleged, the judge finds that the failure of the movant or the attorney to assert those grounds in a prior motion constituted an abuse of the procedure governed by these rules.

Defendant attempts to circumvent this procedural bar by asserting that he "could not raise this ground for relief in the previous Motion for Post Conviction Relief because this Honorable Court denied Defendant's Motion to Enlarge the Page Limit of said motion in its April 26, 2010 order." (Defendant's Instant Motion, page 3.) However, trial courts have discretion to impose reasonable page limits on motions for post-conviction relief. See Schwenn v. State, 958 So.2d 531 (Fla. 4th DCA 2007) (holding trial court has authority to place page limitations on post-conviction filings and 50 pages is a reasonable benchmark). Florida Rule of Criminal Procedure 3.850 was intended to provide relief for a very narrow class of serious errors that could not be corrected on direct appeal. Ives v. State, 993 So. 2d 117, 121 (Fla. 4th DCA 2008). Defendants are not permitted to submit additional grounds for relief on a piecemeal basis, particularly with respect to claims of ineffective assistance of counsel. Scott v. State, 656 So. 2d 204 (Fla. 5th DCA 1995). Accordingly, the Court finds Defendant's Instant Motion is successive and procedurally barred as it constitutes an abuse of the procedure governed by Rule 3.850.

Assuming *arguendo*, that Defendant's Instant Motion is not procedurally barred, the Court still finds Defendant's claim for relief is without merit. In the Instant Motion, Defendant

raises one ground for relief premised upon an allegation of ineffective assistance of counsel. In order to prevail on a claim of ineffective assistance of counsel, Defendant must show that: (1) counsel's performance was outside the wide range of reasonable professional assistance, and (2) counsel's deficient performance prejudiced the defense; that is, that there is a reasonable probability that the outcome of the proceeding would have been different absent counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687 (1984); Cherry v. State, 659 So. 2d 1069, 1072 (Fla. 1995). Further, the "standard is reasonably effective counsel, not perfect or error-free counsel." Coleman v. State, 718 So. 2d 827, 829 (Fla. 4th DCA 1998). A claim of ineffective assistance of counsel will warrant an evidentiary hearing only where a defendant alleges "specific facts which are not conclusively rebutted by the record and which demonstrate a deficiency in performance that prejudiced the defendant." Roberts v. State, 568 So. 2d 1255, 1259 (Fla. 1990). Further, "[t]o establish prejudice [a defendant] 'must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.'" Valle v. State, 778 So. 2d 960, 965-66 (Fla. 2001) (citations omitted).

In his only ground for relief, Defendant alleges counsel was ineffective based on his failure to file a motion to suppress illegally obtained evidence. Specifically, Defendant makes the following argument:

Counsel was ineffective for failing to file a motion to suppress the illegally obtained blood gauze evidence and the photograph of Defendant taken by Brunswick Police while Defendant was being treated in his hospital room as well as the resulting DNA analysis, arrest warrant/supporting affidavit and the videotaped interview of Defendant admitting to being at the scene and subsequently fleeing to Brunswick.

(Defendant's Instant Motion, page 8.) Where a defendant alleges that counsel was ineffective for

failing to litigate a Fourth Amendment claim, the defendant must also prove that the Fourth Amendment claim is meritorious and that a motion to suppress based on the claim would have been granted and the evidence would have been suppressed. Kormondy v. State, 983 So. 2d 418, 430 (Fla. 2007); Zakrzewski v. State, 866 So. 2d 688, 694 (Fla. 2003).

In support of his argument, Defendant relies upon Jones v. State, 648 So.2d 669 (Fla. 1994). In that case, police suspected Jones of involvement in a homicide and went to his hospital room. There they saw a bag containing his clothing and, apparently theorizing that the clothing might provide evidence of his involvement in the homicide, looked into the bag, determined it was Jones' clothing and seized it. The Florida Supreme Court held that this search violated the Fourth Amendment because there were no exigent circumstances and because the search could not be justified under the "plain view" or "open view" doctrines. 648 So.2d at 677-78.

The Court finds that there are dispositive factual differences between the instant case and Jones. In the instant case, the police's initial contact with Defendant was not based on any suspicion that he was involved in a homicide. Rather, after suffering a gunshot wound, Defendant sought treatment at the Southeast Georgia Medical Center using the alias "Tony Williams". (Defendant's Instant Motion, page 4.) Due to the nature of Defendant's injury, Detective Scott Harrell of the Brunswick Police Department was dispatched to the hospital where Defendant informed Detective Harrell "that he had been shot and robbed in our jurisdiction." Id. Detective Harrell then collected Defendant's clothes and a four-by-four gauze that had been removed from Defendant's arm by the nurse. Id. In addition to collecting these items, Detective Harrell also took a photograph of Defendant. Id.

Under the facts of the instant case, the Court finds that Defendant, a purported shooting victim who made an aggravated robbery report to a Brunswick police officer dispatched to the

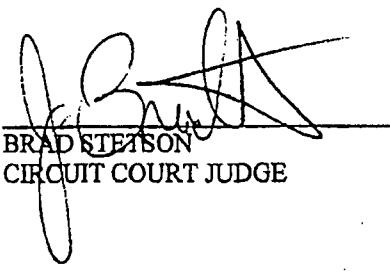
hospital for that purpose, could not arguably retain any expectation of privacy such that Fourth Amendment protection would apply to the photograph taken of Defendant or the seizure of his discarded clothes or the four-by-four gauze. The record fully supports that these items were seized for no other purpose than as evidence in connection with an armed robbery reported by Defendant, the purported shooting victim. See Chavis v. State, 274 So. 2d 544 (Fla. 3d DCA 1973) (affirming conviction of possession of narcotics where the defendant had been stabbed and was being treated in the hospital emergency room; officer's impoundment of the defendant's bloody clothing as evidence and an inventory search thereof, which disclosed a package of heroin that became the basis of the possession charge, was in the course of a valid procedure in an investigation of a crime and the preservation of evidence, and the warrantless inventory search of the clothing was justified). Furthermore, the Court finds Defendant is unable to prove a constitutionally protected possessory interest in the four-by-four gauze that was removed from Defendant's arm by the treating nurse. There is no indication that the hospital would consider such an item the property of the patient, or that Defendant himself expressed any possessory interest in it. The most reasonable inference one can draw is that the gauze, which is disposable by nature, would have been discarded in the trash. “[N]o person can have a reasonable expectation of privacy in an item that he has abandoned[.]” United States v. Paradis, 351 F. 3d 21, 31 (1st Cir. 2003). Accordingly, the Court finds the seizure did not violate Defendant's rights under the Fourth Amendment and Defendant cannot prove that a motion to suppress based on this claim would have been granted. For all the reasons above, Defendant's requested relief is denied.

Based on the above, it is:

ORDERED AND ADJUDGED that Defendant's "Second Motion for Postconviction Relief," is **DENIED**. Defendant shall have thirty (30) days from the date that this Order is filed to take an appeal, by filing Notice of Appeal with the Clerk of the Court.

DONE AND ORDERED in Chambers, at Jacksonville, Duval County, Florida, on this

9th day of January, 2013.


BRAD STETSON
CIRCUIT COURT JUDGE

Copies to:

Office of the State Attorney
Div. CR-F

Tavares James Watson
D.O.C. #: J26050
Gulf Correctional Institution
500 Ike Steele Road
Wewahitchka, Florida 32465-0010

CERTIFICATE OF SERVICE

I do certify that a copy hereof has been furnished to Defendant by United States mail this
9th day of January, 2013.



Judicial Assistant

Case No.: 16-2006-CF-16774-AXXX-MA
Attachments: Exhibits A – D

/bds

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida

Division CR-F

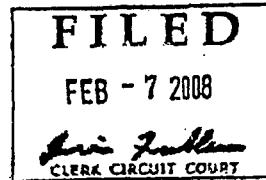
Case Number 16-2006-CF- 16774-AXXX-MA

Probation Violator
Community Control Violator
Retrial
Resentence

State of Florida

v TARVARES JAMES WATSON

Defendant Sentence of Feb 7, 2008, Count 4 only vacated
and set aside per Judge's order



Instr #: 2008035685
BK:14380 PAGES 98-104
RECORDED 02/12/2008 11:11
Clerk of Courts
Duval County Florida
ERecord -smithchd

11/14/08
Please refer to reflect change to count 3 on page 7 of 8 per Judge's order

JUDGMENT

The defendant, TARVARES JAMES WATSON, being personally before this court
represented by C. Fletcher App'd, the attorney of record, and the state
represented by A. Mizrahi, and having

been tried and found guilty by jury or court of the following crime(s)
 entered a plea of guilty to the following crime(s)
 entered a plea of nolo contendere to the following crime(s)

Count	Crime	Offense Statute Number(s)	Degree of Crime	Case Number	OBTS Number
1	First degree Murder	782.04(1)(a) 735.087(1)	Capital		
2	Armed burglary with battery	735.087(2)(a) 810.02(2)(b) 735.087(1)	1 PBL		
3	Attempted murder in the first degree	782.04(1)(a) 735.087(1) 735.087(2)(a)3 773.09(1)	1 PBL		

Instr #: 2008238457
BK:14639 PAGES 167-174
RECORDED 09/16/2008 08:56
Clerk of Courts
Duval County Florida
ERecord -balleyka

and no cause being shown why the defendant should not be adjudicated guilty, IT IS ORDERED that the defendant is hereby ADJUDICATED GUILTY of the above crime(s).

and having been convicted or found guilty of, or having entered a plea of nolo contendere or guilty, regardless of adjudication, to attempts or offenses relating to sexual battery (ch. 794), lewd and lascivious conduct (ch. 800), or murder (s. 782.04), aggravated battery (s. 784.045), burglary (s. 810.02), carjacking (s. 812.133), home invasion robbery (s. 812.135), robbery (s. 812.13), or robbery by sudden snatching (s. 812.131), chapter 787 kidnapping, false imprisonment, luring or enticing a child, and interference with custody; or any other offense specified in section 943.325, the defendant shall be required to submit blood specimens or other approved biological specimens.

and good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

Page 1 of 8

000347

EXHIBIT "A"

Form CCRMOA

1A

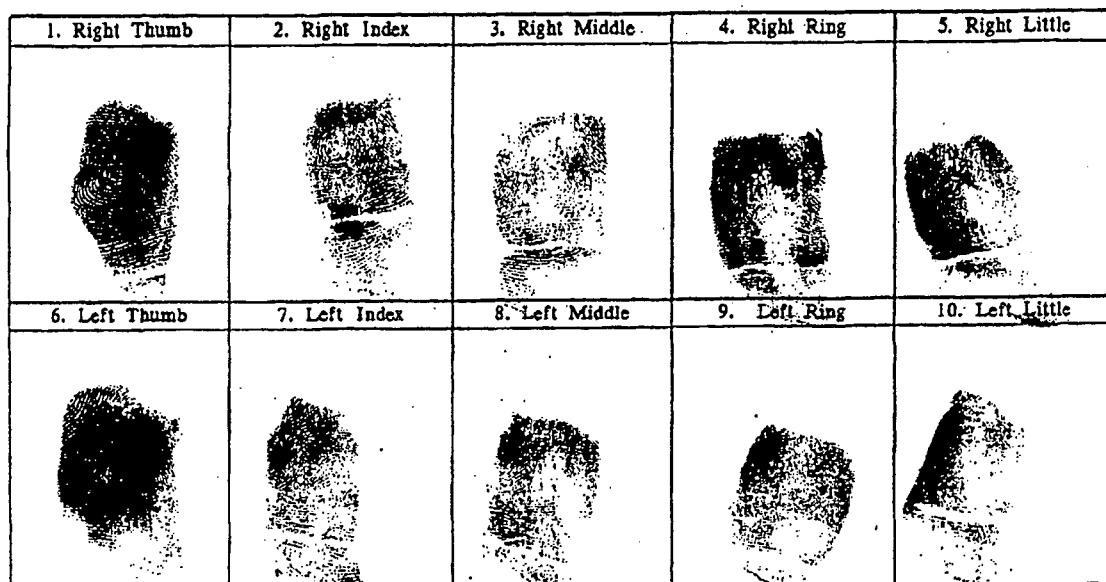
State of Florida
v.

TARVARES JAMES WATSON
Defendant

Case Number 16-2006-CF- 16774-AXXX-MA

Imposition of Sentence Stayed and Withheld (Check if Applicable) The Court hereby stays and withholds the imposition of sentence as to count(s) _____ and places the Defendant on probation/community control for a period of _____ under the supervision of the Department of Corrections (conditions of probation/community control set forth in separate order.)

FINGERPRINTS OF DEFENDANT



Fingerprints taken by:

Barbara Leyton 9848 Barry J
Name Title

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, TARVARES JAMES WATSON, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida,
this 7th day of February, 2008.

J P Haldor
Judge

000348

Page 2 of 8

Form CCPBOA

STATE OF FLORIDA

v

TARVARES JAMES WATSON

Defendant

In the Circuit Court, Fourth Judicial Circuit,
in and for Duval County, Florida
Division CR-F
Case Number 16-2006-CF- 16774-XXXX-MA

CHARGES/COSTS/FEES

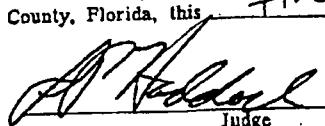
The defendant is hereby ordered to pay the following sums if checked:

- \$50.00 pursuant to section 938.03, Florida Statutes (Crimes Compensation Trust Fund).
- \$3.00 as a court cost pursuant to section 938.01(1), Florida Statutes (Additional Court Cost Clearing Trust Fund).
- \$2.00 as a court cost pursuant to section 938.15, Florida Statutes (Criminal Justice Education by Municipalities and Counties).
- A fine in the sum of \$ _____ pursuant to section 775.0835, Florida Statutes. (This provision refers to the optional fine for the Crimes Compensation Trust Fund and is not applicable unless checked and completed. Fines imposed as a part of a sentence to section 775.083, Florida Statutes are to be recorded on the sentence page(s).)
- \$20.00 pursuant to section 938.09, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).
- A 10% surcharge in the sum of \$ _____ pursuant to section 938.11, Florida Statutes (Handicapped and Elderly Security Assistance Trust Fund).
- A sum of \$ _____ pursuant to section 938.27, Florida Statutes (Prosecution/Investigative Costs).
- A sum of \$ 2500 pursuant to section 938.29, Florida Statutes (Public Defender Fees).
- \$15.00 pursuant to 938.13, Florida Statutes, Misd. convictions involving drugs or alcohol.
- \$200.00 pursuant to section 938.05, Florida Statutes (Local Government Criminal Justice Trust Fund).
- A sum of \$ _____ pursuant to 938.04, Florida Statutes (additional cost - 5% of fine).
- \$135.00 pursuant to section 938.07, Florida Statutes (EMS - DUI cases).
- \$100.00 pursuant to section 938.25, Florida Statutes, (FDLE Operating Trust Fund).
- A sum of \$ _____ pursuant to 938.23, Florida Statutes, (Grants For Alcohol & Other Drug Abuse Program - Drug Abuse Trust Fund).
- A sum of \$ _____ pursuant to 939.18, Florida Statutes, (Assessment of Additional Court Costs for Court Facilities - not to exceed \$150.00).
- Restitution in accordance with attached order.
- A sum of \$20 pursuant to 938.06, Florida Statutes, (Assessment of Additional Court Costs for Crime Stoppers Trust Fund - not to exceed \$500.00).
- A sum of \$3.00 pursuant to 938.19, Florida Statutes, (Assessment of Additional Court Costs - Duval County Teen Court Trust Fund).
- A sum of \$ _____ pursuant to 318.18(13), Florida Statute, and COJ Ordinance Code 634.102(e), (Court House Trust Fund).
- A sum of \$201.00 (Domestic Battery surcharge)
- A sum of \$151.00 pursuant to 938.085, Florida Statutes (Rape Crisis Trust Fund).
- A sum of \$ 65.00 pursuant to 939.185, Florida Statutes, (Assessment of Additional Court Costs to be used for innovations, legal aid, law library, teen court programs - not to exceed \$65.00).
- Other _____

DONE AND ORDERED in open court in Jacksonville, Duval County, Florida, this 7th

day of February

2008


Judge J. H. Faddoul

000349

Page 3 of 8

Defendant TARVARES JAMES WATSON Case Number 16-2006-CF- 16774-AXXX-MA OBTS Number 1602093238

SENTENCE

(As to Count 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record C. Fletcher Appell, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

and the court having on 01/09/08 (date) deferred imposition of sentence until this date.

and the court having previously entered a judgment in this case on _____ (date) now resentence the defendant

and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control.

It Is The Sentence Of The Court That:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes plus \$ _____ as the 5% surcharge required by 938.04, Florida Statutes.

The defendant is hereby committed to the custody of the Department of Corrections.

The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of Life.

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.

Jail Credit It is further ordered that the defendant shall be allowed a total of 92 days as credit for time incarcerated before imposition of this sentence.

Prison Credit It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

Consecutive/ Concurrent As To Other Counts It is further ordered that the sentence imposed for this count shall run consecutive to concurrent with the sentence set forth in count _____ of this case.

000350

Page 4 of 8

Form CCFMOC

Defendant TARVARES JAMES WATSON Case Number 16-2006-CF- 16774-AXXX-MA OBTS Number 1602093238

SENTENCE

(As to Count 2)

The defendant, being personally before this court, accompanied by the defendant's attorney of record C. Fletcher Apod, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

and the court having on 01/09/08 (date) deferred imposition of sentence until this date.

and the court having previously entered a judgment in this case on _____ now resentence the defendant

and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control.

It Is The Sentence Of The Court That:

The defendant pay a fine of \$ 5 pursuant to section 775.083, Florida Statutes plus 5 as the 5% surcharge required by 938.04, Florida Statutes.

The defendant is hereby committed to the custody of the Department of Corrections.

The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of Life.

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

SENTENCE PROVISIONS

Retention of Jurisdiction

The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.

Jail Credit

It is further ordered that the defendant shall be allowed a total of 0 days as credit for time incarcerated before imposition of this sentence.

Prison Credit

It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.

(Consecutive/
Concurrent
As To Other
Counts)

It is further ordered that the sentence imposed for this count shall run (check one) consecutive to concurrent with the sentence set forth in count _____ of this case.

000351

Defendant TARVARES WATSON

Case Number 16-2007-CF-16774-AXXX-MA

SENTENCE

(As to Count 3)

C. Fletcher The defendant, being personally before this court, accompanied by the defendant's attorney of record having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown.

(Check one if applicable.)

and the court having on 01/09/08 deferred imposition of sentence until this date.
 and the court having previously entered a judgment in this case on _____ now resentence the defendant
 and the court having placed the defendant on probation/ community control and having subsequently revoked the defendant's probation/ community control.

It is The Sentence Of The Court That:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes plus \$ _____ as the 5% surcharge required by 938.04, Florida Statutes.
 The defendant is hereby committed to the custody of the Department of Corrections.
 The defendant is hereby committed to the custody of the Sheriff of Duval County, Florida.
 The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.
 For a term of Life

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on probation/ community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.
 However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/ community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/ community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

OTHER PROVISIONS

Retention of Jurisdiction The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes.
 It is further ordered that the defendant shall be allowed a total of 0 days as credit for time incarcerated before imposition of this sentence.
 It is further ordered that the defendant be allowed credit for all time previously served on this count in the Department of Corrections prior to resentencing.
 It is further ordered that the sentence imposed for this count shall run (check one) consecutive to concurrent with the sentence set forth in count 2 of this case.

Page 6 of 8

000352

Defendant TARVARES JAMES WATSONCase Number 16-2006-CF- 16774-AXXX-MA**SPECIAL PROVISIONS**

By appropriate notation, the following provisions apply to the sentence imposed:

Mandatory/Minimum Provisions:

Firearm It is further ordered that the Life minimum imprisonment provisions of section 775.087, Florida Statutes, is hereby imposed for the sentence specified in this count 1,2 (10,20, Life)

Drug Trafficking It is further ordered that the _____ mandatory minimum imprisonment provisions of section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.

Controlled Substance Within 1,000 Feet of School It is further ordered that the 3-year minimum imprisonment provisions of section 893.13(1)(c)1, Florida Statutes, is hereby imposed for the sentence specified in this count.

Habitual Felony Offender The defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the court are set forth in a separate order or stated on the record in open court.

Habitual Violent Felony Offender The Defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(b), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.

Violent Career Criminal The Defendant is adjudicated a violent career criminal and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(c), Florida Statutes. A minimum term of _____ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.

Prison Releasee Re-Offender The Defendant is adjudicated a prison releasee re-offender in accordance with the provisions of section 775.082(8), and must serve 100 percent of the court imposed sentence.

Law Enforcement Protection Act It is further ordered that the defendant shall serve a minimum of _____ years before release in accordance with section 775.0823, Florida Statutes.

Capital Offense It is further ordered that the defendant shall serve no less than 25 years in accordance with the provisions of section 775.082(1), Florida Statutes.

Short-Barreled Rifle, Shotgun, Machine Gun It is further ordered that the 5-year minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count.

Continuing Criminal Enterprise It is further ordered that the 25-year minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count.

Aggravated Assault on a Law Enforcement Officer It is further ordered that the 3 year minimum term of imprisonment provisions of section 784.07(2)(c), Florida Statutes, is hereby imposed for the sentence specified in this count.

000354

Page 7 of 8

Form CCPMOD

Defendant Tatvares James Watson Case Number 16-2006-CF-16774-AXXX-MA

OTHER PROVISIONS

Consecutive/
Concurrent
As To Other
Convictions

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run
(check one) consecutive to concurrent
with the following:
(check one)
any active sentence being served.
specific sentences: _____

In the event the above sentence is to the Department of Corrections, the Sheriff of Duval County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further recommends _____

DONE AND ORDERED in open court at Jacksonville, Duval County, Florida, this 12th
day of September, 2008.

L.J. Haldane
Judge

Page 8 of 8

Form CCFM02

M A N D A T E

From

**DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT**

To the Honorable Judges of the Circuit Court for Duval County
WHEREAS, in the certain cause filed in this Court styled:

TARVARES WATSON

Case No : 1D08-1439

10-SEP '69 12:17 06660

Lower Tribunal Case No : 06-16774 CFA

10

STATE OF FLORIDA

The attached opinion was issued on August 20, 2009.

YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with said opinion, the rules of Court, and the laws of the State of Florida.

WITNESS the Honorable PAUL M. HAWKES, Chief Judge

of the District Court of Appeal of Florida, First District,

and the Seal of said Court done at Tallahassee, Florida,

on this 8th day of September 2009.



John S. Wheeler
JOHN S. WHEELER, Clerk
District Court of Appeal of Florida, First District

EXHIBIT "B"

TARVARES WATSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

IN THE DISTRICT COURT OF APPEAL,
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D08-1439

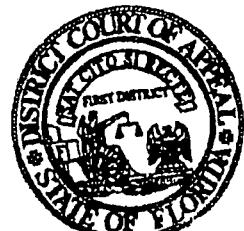


Opinion filed August 20, 2009.

An appeal from the Circuit Court for Duval County.
L. P. Haddock, Judge.

Nancy A. Daniels, Public Defender, and M. J. Lord, Assistant Public Defender,
Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Meredith Charbula, Assistant Attorney
General, Tallahassee, for Appellee.



PER CURIAM.

AFFIRMED.

BARFIELD, KAHN, and VAN NORTWICK, JJ., CONCUR.

FILED 10 AUG 04 PM 1230 JIM FULLER

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA.

CASE NO.: 16-2006-CF-16774-AXXX
DIVISION: CR-F

STATE OF FLORIDA

vs.

TARVARES JAMES WATSON

ORDER DENYING MOTION FOR POST CONVICTION RELIEF

The defendant herein filed a Motion for Post Conviction Relief pursuant to Rule 3.850, Florida Rules of Criminal Procedure on June 7, 2010. Pursuant to this Court's order, the State filed a response to defendant's motion.

Upon consideration, it is hereby ORDERED AND ADJUDGED that the defendant's Motion for Post Conviction Relief is hereby denied for the reasons set forth in the State's Response to Defendant's Motion for Post Conviction filed herein. (Attached hereto as Exhibit "A" and by reference made a part hereof.)

The movant may appeal the denial of his motion within thirty (30) days of the date of rendition of this order.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, this 3 day of August, 2010.



CIRCUIT JUDGE

EXHIBIT "C"

FILED
IN COMPUTER
J. BAILEY

Copies to:

Alan Mizrahi, Esq. (w/o attachments)
Assistant State Attorney

Tarvares Watson, #J26050
Gulf Correctional Institution-Annex
699 Ike Steele Road
Wewahitchka, FL 32465

S.A. CASE NO.:
05CF128149AD

IN THE CIRCUIT COURT OF THE FOURTH
JUDICIAL CIRCUIT, IN AND FOR DUVAL
COUNTY, FLORIDA

CLERK NO.:162006CF016774AXXXMA

STATE OF FLORIDA

DIVISION: CRF

vs.

TARVARES JAMES WATSON

FILED 12/11/2019 11:55 AM FLORIDA
CLERK

State's Response to Order Directing State Attorney to File a Response

The State, by and through the undersigned attorney, hereby files this Response to Defendant's Motion for Post Conviction Relief, and requests that Defendant's Motion for Post Conviction Relief be denied without an evidentiary hearing. In order to prevail on a claim of ineffective assistance of counsel, Defendant must show that: 1) counsel's performance was outside a wide range of reasonable professional assistance, and 2) counsel's deficient performance prejudiced the defense, that is, there is a reasonable probability that the outcome of the proceeding would have been different absent counsel's deficient performance. Strickland v. Washington, 468 U.S. 668, 687 (1984); Cherry v. State, 659 So. 2d 1069, 1072 (Fla. 1995). Further, the standard for determining an attorney's performance is reasonably effective counsel, not perfect or error free counsel. Coleman v. State, 718 So. 2d 827, 829 (Fla. 4th DCA 1998). Prejudice is demonstrated if the deficiency was sufficient to render the verdict unreliable. Gorham v. State, 521 So. 2d 1067 (Fla. 1988). A claim of ineffective assistance of counsel will warrant an evidentiary hearing only when the Defendant alleges specific facts which are not conclusively rebutted by the record and which demonstrate a deficiency in performance that prejudiced the Defendant. Roberts v. State, 568 So. 2d 1255, 1259 (Fla. 1990). Further, to establish prejudice, a Defendant must show that there is a reasonable probability that, but for counsel's unprofessional error, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome. Valle v. State, 778 So. 2d 960, 965-66 (Fla. 2001).

Defendant alleges ten (10) grounds in his motion. Each ground is unfounded and Defendant's Motion should be denied without a hearing. Defendant was convicted, as charged, of Murder in the First Degree, Attempted Murder in the First Degree, and Armed Burglary with a Battery.¹ The evidence of Defendant's guilt was overwhelming. Jennifer Gant, the deceased victim, was shot nine (9) separate times with a high powered rifle. (See, R. Vol. IV p. 141).

¹ Defendant was also convicted of Attempted Felony Murder, but Defendant could not be convicted of both Attempted First and Attempted Felony Murder.

EXHIBIT A

FILED
IN COMPUTER
J. BAILEY

Jerome Hughes, the surviving victim, was shot four (4) to five (5) times. (See. R. Vol. IV p. 114) Both victims were shot inside the bedroom of their apartment. (See. R. Vol. IV p. 31-32) The victims front door was clearly forced open. (See. R. Vol. IV p. 92). The crime scene revealed 18 7.62mm spent shell casings inside the residence. (See. R. Vol. IV p.102) Additionally, a live 7.62mm round was found inside the apartment. (See. R. Vol. IV p. 94) The crime scene also revealed Jerome Hughes' 9mm gun was fired once. (See. R. Vol. IV p. 97-98) Police noticed that a blood trail led from the residence to the parking lot. (See. R. Vol. IV p. 30) Based on the victim's gun being fired and there being a blood trail leaving the victims' residence, investigators deduced that a shooter was wounded during this crime.

Hours after this shooting, Defendant appeared at a hospital in Brunswick GA., complaining of a gunshot wound. Defendant's history of being shot was inconsistent and contained clearly false information. (See. R. Vol. IV p. 66-67). Police obtained a DNA standard from Defendant at the hospital and were able to match the blood trail leaving the victims' residence to Defendant. Defendant's "touch" DNA was found of the live 7.62mm round of ammunition. (See. R. Vol. IV p. 166-175). In addition to lying to police about the cause of Defendant's injury, Defendant lied to witness Emory Griffin about the nature and the cause of Defendant's injured arm. (See Vol. IV p. 78). Defendant fled the jurisdiction and was arrested approximately 18 months after the incident. Only then does Defendant finally admit knowledge of the incident. Defendant claims he had been abducted by two unknown persons, as he was in the process of going to buy narcotics from Jerome Hughes, and was accidentally shot in the cross fire. (See. R. Vol. IV p. 187-198). This overwhelming evidence of guilt clearly demonstrates that any alleged error on the part of defense counsel surely would not have effected the outcome of this trial.

Grounds one (1), two (2) and three (3) generally allege the same error surrounding the testimony of an eye witness, Christy Liggins. Defendant claims that Christy Liggins perjured herself when she identified Defendant in court, and Defendant cites Ms. Liggins testimony surrounding her inability to see the face of the injured individual fleeing the murder scene as evidence of this perjury. Defendant, in his own motion however, correctly points out that Ms. Liggins testified in deposition that she believed she had seen the injured individual previously at the apartment complex. Furthermore, DNA evidence confirms Ms. Liggins' identification. There is no legal requirement that a witness identify a person before trial, nor is there any case law to suggest that in court identifications are per se unduly suggestive and inadmissible absent a previous identification. Defense counsel thoroughly cross examined the Ms. Liggins about her ability to identify Defendant and nothing she testified to in trial was directly inconsistent with previous testimony. (See R. Vol. IV p. 51-60).

Ground four (4) alleges counsel failed to timely file a motion for new trial and properly argue the weight of the evidence ground. This is refuted by the record as the Court heard a motion for

new trial and considered the weight of the evidence in denying the motion for new trial. (See R. Vol. II p. 358 and 359).

Grounds five (5), six (6), seven (7), eight (8), and nine (9) all allege counsel failed to object to improper closing arguments. To begin, none of alleged improper arguments were in fact improper. The State merely made logical arguments from the evidence before the jury. Defendant sites no legal authority to suggest any of the alleged improper arguments were in fact improper. Even if these arguments were improper, there is nothing to suggest these arguments had any material effect on the outcome of this trial.

Ground ten (10) simply alleges that cumulative effect of counsel's failures deprived Defendant of a fair trial. For the reasons stated above this claim should be denied.

WHEREFORE, the State requests that the Defendant's Motion for Post Conviction Relief be DENIED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by Mail to Defendant, this 17 day of July, 2010

ANGELA B. COREY
STATE ATTORNEY

By: al

Alan Seth Mizrahi
Bar Number 0122300
Assistant State Attorney

-3-

M A N D A T E

From

**DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT**

To the Honorable Judges of the Circuit Court for Duval County

WHEREAS, in the certain cause filed in this Court styled:

TARVARES WATSON

Case No : 1D10-5108

v.

Lower Tribunal Case No : 16-2006-CF-16774

STATE OF FLORIDA

The attached opinion was issued on December 8, 2010.

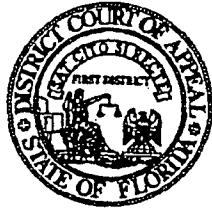
YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with said opinion, the rules of Court, and the laws of the State of Florida.

WITNESS the Honorable Robert T. Benton, II, Chief Judge

of the District Court of Appeal of Florida, First District,

and the Seal of said Court done at Tallahassee, Florida,

on this 1st day of February 2011.



John S. Wheeler
JOHN S. WHEELER, Clerk
District Court of Appeal of Florida, First District

EXHIBIT "D"

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

TARVARES WATSON,

Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D10-5108

STATE OF FLORIDA,

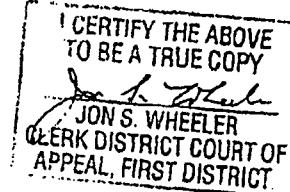
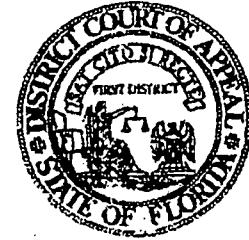
Appellee.

Opinion filed December 8, 2010.

An appeal from the Circuit Court for Duval County.
L. P. Haddock, Judge.

Tarvares Watson, pro se, Appellant.

Bill McCollum, Attorney General, Tallahassee, for Appellee.



PER CURIAM.

AFFIRMED.

VAN NORTWICK, LEWIS, and ROBERTS, JJ., CONCUR.

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO. 2006-CF-16774-AXXX-MA
DIVISION: CR-F

STATE OF FLORIDA

vs.

TARVARES WATSON

FILED
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E.O.

ORDER DENYING DEFENDANT'S MOTION FOR REHEARING

THIS CAUSE came to the attention of the Court upon the Defendant's *Pro Se* Motion for Rehearing filed January 24, 2013. After a review of the pleadings, the Court does not find any points of law or fact that were overlooked on January 9, 2013, in it's decision to deny the Defendant's prior Motion. Accordingly, the Defendant's instant Motion is without merit.

Based on the above, it is:

ORDERED and ADJUDGED that the Defendant's Motion for Rehearing is **DENIED**.

Defendant shall have thirty (30) days from the date of rendition of this order in which to take an appeal.

DONE AND ORDERED in Chambers, in Jacksonville, Duval County, Florida, on this 4th day of February, 2013.


BRAD STETSON
CIRCUIT COURT JUDGE

Copies to:

Office of the State Attorney, CR-F

1

Tarvares Watson, DC#J26050
Gulf Correctional Institution
500 Ike Steele Road
Wewahitka, Florida 32465

I hereby certify a copy of the foregoing has been furnished by U.S. Mail to the Defendant
named herein, this 5 day of February, 2013



Mike Dele
Deputy Clerk

16-2006-CF-16774-AXXX-MA
/lg

MANIFESTO

From

FILED

AUG 05 2013

DISTRICT COURT OF APPEAL OF FLORIDA
FIRST DISTRICT

RECEIVED
RECEIVED

To the Honorable Judges of the Circuit Court for Duval County

WHEREAS, in the certain cause filed in this Court styled:

TARVARES WATSON

Case No : 1D13-1058

v.

Lower Tribunal Case No : 2006-CF-16774-
AXXX

STATE OF FLORIDA

The attached opinion was issued on May 28, 2013.

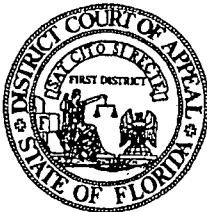
YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in
accordance with said opinion, the rules of Court, and the laws of the State of Florida.

WITNESS the Honorable Joseph Lewis, Jr., Chief Judge

of the District Court of Appeal of Florida, First District,

and the Seal of said Court done at Tallahassee, Florida,

on this 5th day of August 2013.



Jon S. Wheeler

JON S. WHEELER, Clerk
District Court of Appeal of Florida, First District

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

TARVARES WATSON,
Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D13-1058

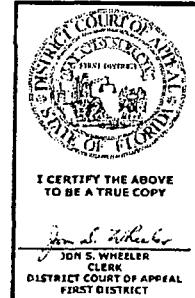
STATE OF FLORIDA,
Appellee.

Opinion filed May 28, 2013.

An appeal from the Circuit Court for Duval County.
J. Bradford Stetson, Judge.

Tarvares Watson, pro se, Appellant.

Pamela Jo Bondi, Attorney General, and Samuel A. Perrone, Assistant Attorney General, Tallahassee, for Appellee.



PER CURIAM.

AFFIRMED.

BENTON, C.J., THOMAS, and CLARK, JJ., CONCUR.

APPENDIX C

Order Granting motion to amend the motion for rehearing and denying amended motion for rehearing

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151**

December 09, 2019

**CASE NO.: 1D19-1544
L.T. No.: 2006-CF-16774-AXXXMA**

Tarvares James Watson

v.

State of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion to amend the motion for rehearing is granted. Appellant's amended motion for rehearing is denied.

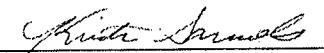
I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

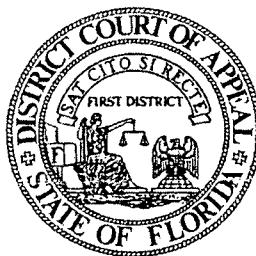
Served:

Hon. Ashley Moody, AG
Tarvares James Watson

Sharon Traxler, AAG

th


KRISTINA SAMUELS, CLERK



APPENDIX D

**Order Granting motion to amend the motion for rehearing and denying third
amended motion for rehearing**

**DISTRICT COURT OF APPEAL, FIRST DISTRICT
2000 Drayton Drive
Tallahassee, Florida 32399-0950
Telephone No. (850)488-6151**

January 16, 2020

**CASE NO.: 1D19-1544
L.T. No.: 2006-CF-16774-AXXXMA**

Tarvares James Watson

v.

State of Florida

Appellant / Petitioner(s),

Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion to amend motion for rehearing, filed December 12, 2019, is granted. Appellant's Third Amended Motion for Rehearing, filed December 12, 2019, is denied. No further post-decision motions or amendments thereto are permitted.

I HEREBY CERTIFY that the foregoing is (a true copy of) the original court order.

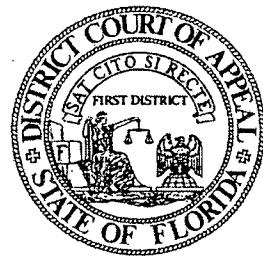
Served:

Hon. Ashley Moody, AG
Tarvares James Watson

Sharon Traxler, AAG

th

Kristina Samuels
KRISTINA SAMUELS, CLERK



**Additional material
from this filing is
available in the
Clerk's Office.**