20-5695

No. SC20-263

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Tony Owen DuPree — PETITIONER
(Your Name)

vs.

State of Florida — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(Actual Innocence Manifest Of Injustice)

Florida State Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Tony Owen DuPree
(Your Name)

9544 CR 476B,
(Address)

Bushnell, Fla 33513
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

(1). Is the Florida Supreme Court correct in saying it lacks jurisdiction where Petitioner raised Actual Innocence claim, bringing Newly Discovered evidence that the State knowingly perjured itself by stateing to the jury that Petitioner's alibi witness was never located? (And lower tribunal denied)?

(2). Is the Florida State Supreme Court correct in saying it lacks jurisdiction where the lower tribunal claimed Petitioner is time barred from the court to Effectuate Intent of Plea agreement?

(3). Is the Florida State Supreme Court correct in saying it lacks jurisdiction, where the Florida State Supreme Court has developed new case law in the form of Courts New Opinion which apply's to Petitioner sentence, same as in Florida State Supreme Courts New Opinion?

(4). Is the Florida State Supreme Court correct in saying it lacks juriadiction where the lower tribunal was perpetrateing Judicial Vindictiveness / Fraud where after a New trial where Petitioner was convicted of a lesser charge but given a more sever sentence takeing away Petitioners opportunity for parole even though the sentence verbal and written is not natural life, by statue it is?

(5). Is the Florida State Supreme Court correct in saying it lacks jurisdiction where the lower tribunal Supressed and Destroyed evidence favorable to -

Petitioner, not limited to stopping Petitioner from testifying to the jury that the 45 year old murder victim called 911 in order to help authorities arrest Roy L. Lawence hours before Roy murder Clara who was in hideing from Roy; Roy's nephew stated that Roy killed Clara; The State obtained a Grandjury indictment based on a perjured statement by State's investigator that he had a witness identify Petitioner. The witness denied ever identifying Petitioner and both State witnesses wrongly identified a attorney and a member of the jury as the man they saw. Was the court correct in leaving this out when the State reinacted testimony of deceased State witnesses useing the district attorney's secretary to roleplay State witnesses testimony; Also destroying all evidence after trial before Petitioner could have it tested? Not limited to prints, cigarette butts of murder perpetrator.

(6). Is the Florida State Supreme Court correct in saying it lacks jurisdiction, where the lower tribunal refused to allow a new attorney on the case, in a New trial to deposition any witnesses?

(7) Is the Florida State Supreme Court correct in saying it lacks juridiction, where the lower tribunal refused to grant funding for experts in forensic's for Petitioner where State was allowed to use forensics experts as State witnesses?

(8) Is the Florida State Supreme Court correct in saying it lacks jurisdiction, where the lower tribunal-

allowed States investigator to twist words of Petitioner forced from him through sleep deprivation; Investigators refused to place Petitioner in a cell even after he refused to sign away his right to remain silent and stated he did not want to speak with them? Even after his refusal and hours of sleep deprivation questioning they would only place Petitioner in a cell used only for disciplinary deprived of phone and away from all human contact?

(9). Is the Florida State Supreme Court correct in saying it lacks juriadiction, where the lower tribunal knew that Petitioners attorney at New trial was an ex-police officer in the very department with the States witnesses and were friends. Petitioner had lived in Santa Rosa County a short time and was unaware. Shouldn't the attorney and the State have made Petitioner aware of this major conflict of interest?
The attorney for Petitioner who was friends with States witnesses while working with them was Glen Arnold.

LIST OF PARTIES

[✓] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

See - page (ii)

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Table Of Authorities Cited

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix # C to the petition and is

[ ] reported at _____; or,
[✓] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[ ] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was Feb, 21, 2020. A copy of that decision appears at Appendix #C.

[ ] A timely petition for rehearing was thereafter denied on the following date: Feb, 21, 2020, and a copy of the order denying rehearing appears at Appendix #C.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1-(A). State Knowingly Utilized Perjured Testimony
(No Time Bar)

The State knowingly procured indictment against Petitioner for 1st Degree Murder, based on a perjured typed report by Investigator Jim Spencer stating he had a witness pick Petitioner's photo out of a line-up of photos. Jim Spencer during his deposition stated that his above report to procure Grandjury indictment based on Ms. Margie Bagget identifying Petitioner was not true but was a typo by him.

After New trial Petitioner learned that the State did locate Petitioner's alibi witness which would clear Petitioner of murder, but State's witness investigator Jim Spencer told the jury that the alibi witness was never found.

Petitioner's 6th and 14th Amendment Rights were clearly violated by the State's indictment by fraud and the State's perjured testimony in trial. See- U.S. v. Haese, 162 F. 3d 359 (5th Cir. 1998)- Held that defendant's convictions must be reversed on due process grounds where the government knowingly elicits, or fails to correct materially false statements from witness.

This Honorable Court, accordingly, must remand this case to the circuit court for evidentiary hearing or in short, vacate the conviction as seen in Haese; to ensure that Manifest of Injustice within its reach is surfaced corrected. (Courts records show that Petitioners alibi was found).

2-(B). Effectuate Intent of Plea Agreement
(No Time Bar)

If this Honorable Court will look at Exhibit #D, here-in. The State in the Plea Agreement clearly states it will NOT seek the Habitual and this charge will run

with what was reduced to 2nd Degree Murder.

However, once Petitioner's charge was reduced to 2nd degree murder by jury findings, the Petitioner was sentenced as a Habitual, thus violating a stipulation NOT to Habitualize. (Until this point the State had signed off on a recommended sentence of 17 to 22 years; See-Exhibit "E", attached here-in, two pages).

Stipulations are binding not only upon the parties, but also upon the trial and appellate courts. See-U.S. v. Hellman, 560, F. 2d 1235 (C.A. Fla. 1977).

Petitioner's 6th and 14th Amendment rights have been violated since he only has two charges, they are run concurrent, you cannot Habitualize one without the other, and which neither was originally habitualized at 1st trial and sentence.

See authority as aforementioned, Hensley v. Municipal Court, supra; Gunn v. Newsome, supra; Engle v. Isaac, supra.

Petitioner would seek relief from this Honorable Court by "effectuate the intent of the plea agreement." See-Foster v. State, 2016 WL 3766778 (Fla. 2nd DCA 2016); to ensure that Manifest Of Injustice within its reach are surfaced and corrected.

3-(C). Courts New Opinion
(No Time Bar)

The Florida State Supreme Court has new opinions. See-Stephens v. State, 9 So. 3d 640 (2009); Hawkins v. State, 195 So. 3d 1196 (Fla. 1st DCA 2016)-Holding, that prior to 1995, "Life Felonies were not subject to habitual felony offender enhancement."-(Petitioner was sentenced in 1994).

It would be a manifest injustice to deny Petitioner the same relief afforded other defendants identically situated, that does not promote, and in fact corroder, un-

iformity in the decisions of the court.

Petitioner's 6th and 14th Amendment Rights were violated when counsel failed to inform petitioner that State might enhance his life felony if he exercised his appeal rights, also the court violated all Due Process rights by enhancement of Life Felony.

This Honorable Court, accordingly, must remand this case to the circuit court for evidentiary hearing or in short, vacate the conviction, to ensure that Manifest Of Injustice within its reach is surfaced and corrected.

4-(D) Judicial Vindictiveness / Fraud

The Parole Board has informed Petitioner that under his original sentence for 1st degree murder (a capital felony) he was eligible for parole after 25 years. But under Judge Bell's new enhancement under Habitual, for the lesser offense, 2nd degree murder, which is a first degree felony, Petitioner is no longer eligible for parole (Even though his sentenceing sheet Exhibit #E, says parole eligible).

Petitioner's 5th, 6th, 7th, 8th, 9th, and 14th Amendment Rights were violated under Double Jeopardy, Separations of Powers and all Due Process Rights U.S.C.A.

See-Carter v. State, 786 So.2d 1173, 1178 (Fla. 2001), and parallel explanation by the Second DCA in Cote, "that a judge is never authorized to impose a written sentence that increases the length of the sentence beyond the term orally pronounced." See-Exhibit #F.

This Honorable Court, accordingly, must remand this case to the circuit court for evidentiary hearing or in short, vacate the conviction, to ensure that a Mani-

feat Of Injustice within its reach has been surfaced and corrected.

5-(E) Suppressed And Destroyed Evidense
(No Time Bar)

The allegation of illegal conviction was an exceptional circumstance warranting relaxation of the law of the doctrine, See-881 So. 2d at 17; Also, Brumit v. State, 971 So. 2d 205, 33 Fla. L. Weekly D168, (Fla. App. 4 Dist. 2007). Petitioner has shown herein verifiable records proving conclusively that the State committed fraud to obtain the indictment and fraud to obtain a conviction and fraud in sentence against Petitioner.

Since the Court denied Petitioner's new attorney in a new trial to hold any depositions and denied Petitioner any Forensic expert. And the State claimed they never spoke to Petitioner's alibi witness. Petitioner's only defense since his attorney called no witnesses; Was to take the stand and point out that Clara had been hideing from her husband Roy L. Lawrence for weeks, and on the day Petitioner met Clara she explained and even requested Petitioner give her a ride from her daughters home to Clara's mother's home which he did and at Clara's mother's home Clara called 911. The State stopped Petitioner 12 times from giveing the jury the facts that Clara in her 911 call gave police directions where to find Roy L. Lawrence hideing from police and that Roy found Clara soon after the call and killed/possibly drawned her. This 911 call would have made a difference in the juries decision, but they were not allowed to hear it.

A Defendant is entitled to have his jury instructed on the law applicable to his theory of defense if there is any

evidence presented supporting such a theory, even if the only evidence presented supporting the defense theory comes from the defendant's own testimony. See - Bozeman v. State, 714 So. 2d 572 (Fla. 1st DCA 1998).

Also but not limited to, the State immediately after New trial obtained a Court Order to destroy all evidence in the case, so that after the court denied Petitioner forensic experts, the State ensured that Petitioner could never have experts examine evidence. See - Williamson v. Reynolds, 904 F. Supp. 1529 (E.D. OKL (1994) Holding - When forensic and expert testimony are critical parts of prosecution of indigent defendant, due process requires State to provide expert who is not beholden to prosecution; fact that forensic evidence and expert testimony are crucial to prosecution is sufficient showing of need for expert assistance and prejudice to defendant without it. U.S.C.A. Const. Amends 5th, 6th, 14th. Judge Bell refused request for such forensic and experts be provided for the Defense. Counsel was totally ineffective against expert in forensics - not limited to expert on tire tracks - expert on finger prints etc.

This Honorable Court, accordingly, must remand this case to the circuit court for evidentiary hearing or in short, vacate the conviction, to ensure that a Manifest of Injustice within its reach is surfaced and corrected (Also destroyed cigarette butts of murder perpetrator).

6 - (F). Right To Remain Silent
(No Time Bar)

Investigators Spencer and Bryant refused to place Petitioner in a cell after he refused to sign a waiver of his rights. Investigators went on to use sleep deprivation for hours into the AM hours. Even threatening

to jail Petitioners mother and wife if he wouldn't at-
leased go over where he had lived and car's he drove
over the years; information that was not related to qu-
estions about any crimes the Investigators said. After re-
peating addresses and cars he drove Petitioner refused to
repeat it all over again and said- 'I am not repeating
it again, you know what happened.' Investigators
were allowed to twist this statement in trial. It
should not have been allowed since Petitioner refused
to give up his right to remain silent. See- Martinez v.
Ryan (2012). Petitioners 6th and 14 Amend Rights U.S.C.A.
have been violated. See- Exhibit # G.

This Honorable Court, accordingly, must remand this
case to the circuit court for evidentiary hearing or in
short, vacate the conviction, to ensure that a Manifest
Of Injustice within its reach is surfaced and corrected.

7- (G)

Attorney Client Conflict
(No Time Bar)

The ultimate attorney client conflict was for the
Petitioner to learn after his New trial that his
attorney had been a police officer in the same town
and department with State witnesses Bryan and
Spencer, and were actually good friends with them.
Petitioner was denied a conflict free attorney and
had no knowledge of the above said information
while the State did know and did not bring it to
the attention of the Court and Petitioner.
Petitioner's 6th and 14th Amendment rights were clearly
violated by the State's failure to bring to the attention

of the Court and Petitioner, the ultimate conflict that Petitioners attorney Glen Arnold and States witnesses not limited to Investigator Larry Bryant and Investigator Jim Spencer were all friends working together in the Milton, Fla police department. See- U.S. v. Haese, 162 F. 3d 359 (5th Cir. 1998)- Held that defendant's conviction must be reversed on due procesr grounds where the government knowingly elicits, or fails to correct materially false statements from witness.

This Honorable Court, accordingly, must remand this case to the circuit court for evidentiary hearing or in short, vacate the conviction as seen in Haese, to ensure that a Manifest Of Injustice within its reach is surfaced and corrected. See- Exhibit #G.

8-(H) Denied Depositions In New Trial

(No Time Bar)

The court denied Petitioner and his attorney Glen Arnold takeing depositions in New trial where attorney Glen Arnold was new to the case. There were needed depositions not limited to the murder perpetrator Roy L. Lawrence who had never been depositioned. Since depositions is part of due process in a New trial and Judge Keneth B. Bell denied the motion to take depositions, Petitioner has never had his new trial.

The allegation of illegal conviction was and exceptional circumstance warranting relaxation of the law of the doctrine, See- 881 So. 2d at 17; Also, Brumit v. State, 971 So. 2d 205, 33 Fla. L. Weekly D168, (Fla. App. 4 Dist. 2007).

Petitioner's 5th, 6th, 7th 8th, 9th and 14th Amend Rights were violated. See - Exhibit # G.

This Honorable Court, accordingly, must remand this case to the circuit court for evidentiary hearing or in short, vacate the conviction, to ensure that a Manifest Of Injustice within its reach has been surfaced and corrected.

Denied Forensic Experts
(No Time Bar)

The State called several experts during trial concerning the side of a thumb print claimed to be Petitioner's; tire tracks claimed to be Petitioner's; and a coroner who testified there was enough water in the lungs of the 45 year old victim that scientifically could prove cause of death could have been drawning (The victim was found in a popular swiming area). Petitioner's 5th, 6th, 14th U.S.C.A. Const. Amends Rights were violated by the court denying Petitioner's request for forensic experts. See - Williamson v. Reynolds, 904 F. Supp. 1529 (E.D. OKL 1995) Holding that when forensic evidence and expert testimony are critical parts of prosecution of indigent defendant, due process requires State to provide expert who is not beholden to prosecution; fact that forensic evidence and expert testimony are crucial to prosecution is sufficient showing of need for expert assistance (especially concerning death of victim in Petitioner's case) and prejudice to Petitioner without it. See - Exhibit # G, five pages.

This Honorable Court, accordingly, must remand this case to the circuit court for evidentiary hearing or in short, vacate the conviction, to ensure that a Manifest Of

Injustice within its reach is surfaced and corrected.

Standard of Review

Newly discovered evidence, conatitutional errors, fundamental errors and manifest injustice can be raised at any time and also here in changes in new law. This is a proper motion to raise such a claim - All Writs / Post-conviction Petition For A Writ Of Certiorari relief outside the two-year time limitation. These claims were unknown to Petitioner by the use of due diligence. See - Martinez v. Ryan, 132 S. Ct. 1309 (2012); Jones v. State, 591 So. 2d 911 (Fla. 1991); Delgado v. State, 743 So. 2d 569 (Fla. 3rd DCA 1999). This newly discovered evidence would have probably produced an acquittal at trial. See - Schlup v. Delo, 513 U.S. 298, at 324, 115 S. Ct. 851 at 865, 130 L. Ed. 2d (1995); Williams v. State, 110 So. 2d 654 (Fla. 1959); also Stephens v. State, 829 So. 2d 945 (Fla. 1st DCA 2002).

Fla. R. Crim. P. 3.850(b)(2), Fla. R. App. P. 9.141(b), Hoffman v. State, 571 So. 2d 449 (Fla. 1990), and schedule an evidentiary hearing, or state with specificity relying upon attachment of the court record to an order delineating the facts and law conclusively demonstrating relief is not entitled on each legally sufficient claims are summarily denied. For the standard of review, See - Patton v. State, 784 So. 2d 380, 386 (Fla. 2000); Maharaj v. State, 684 So. 2d 726, 728 (Fla. 1996); Lee v. State, 789. So. 2d 1176 (Fla. 3rd DCA 2001); Porter v. State, 788 So. 2d 917 (Fla. 2001); See also - Winship, 397 U.S. 358, 364 (1970) Holding that - "it is critical that the moral force of the criminal law not be diluted by a standard of proof that leaves people in doubt whether innocent men are being condemned." Id. at 364. In his concurring opinion, Justice Harlan noted that standard

is "bottomed on a fundamental value determination of our society that it is far worse to convict an innocent man than to let a guilty man go free")

Statement Of The Case

AFFIDAVIT OF TONY OWEN DUPREE IN SUPPORT OF ALL WRITS PETITION

STATE OF FLORIDA)
) ss
COUNTY OF WALTON)

I, **Tony Owen DuPree**, hereinafter affiant, do hereby swear that the following statement is true and correct and made of my own free will, and from my own personal knowledge. I am over eighteen (18) years of age, a United States Citizen, am of sound mind and am competent to make this affidavit.

1. Affiant had a new trial in 1994 where he was on trial for 1st degree murder. He was convicted of a lesser offense – 2nd degree murder. Judge Kenneth Bell presided over affiant's new trial and sentence
2. Affiant entered a plea agreement where the State agreed not to habitualize a gun charge that was run concurrent with the murder charge, and agreed not to challenge prior convictions before taking the stand.
3. After the jury was dismissed, the State sought to impose habitualization in violation of the plea agreement. Affiant did not appeal the binding plea agreement.
4. On the day of sentencing, affiant entered the court in the middle Judge Bell's reading of letters from affiant's family members requesting a lenient sentence. Affiant was shocked to hear Judge Bell tell the family and friends present in the courtroom that the judge had some sort of report of his own that affiant was expelled from the 1st grade for fighting. (Affiant has requested this statement on record, but the court has never provided it). Judge Bell stated that this fight in the first grade showed the pattern of affiant being a criminal that he would/must sentence to the max.
5. The fight which Judge Bell recounted was from the early 1960's when racial tension was boiling and affiant's mother was called to pick him up from school after he was attacked by a group of black children of which one hit affiant with a board, injuring his ear. Affiant was not expelled as a result of the fight. Affiant's 1st grade school behavior as well as several other erroneous charges alleged by Judge Bell were not convictions nor was the information shared with the jury.
6. At trial, the State's witness could not identify affiant in photo line-ups, and both State witnesses in first trial identified someone in the courtroom other than affiant. The State was allowed, at second trial, to cut out all information that its witnesses identified someone other than affiant.
7. State's witness, last to see the truck the victim was carried away in, was shown a large picture of affiant's truck at the second trial and stated that was not the truck she saw.
8. Judge Bell orally sentenced affiant to "Life Without Parole for fifteen (15) years."
9. Not long after that, Judge Bell was promoted to the Florida Supreme Court. Within a short period, Judge Bell was forced to resign from the Supreme Court due to his

involvement in writing fraudulent reports concerning a DUI/wreck.

10. The Parole Board has informed affiant that under his original sentence for 1st Degree Murder (a capital felony) he was eligible for parole after 25 years. But under Judge Bell's new sentence for the lesser offense, 2nd-degree murder, which is a first degree felony, affiant is no longer eligible for parole.

11. Investigators Bryant and Jim Spencer had in evidence a dozen cigarette butts, which they reported to the State and affiant's public defender that these butts belonged to the murderer. Affiant was urged by his public defender to seek a plea deal from the State because there would be DNA on the butts, proving positively who the murderer is. Once it was learned affiant never smoked in his life, the cigarette butts disappeared as evidence.

12. Investigator Larry Bryant for weeks concentrated on a suspect living near the scene due to mudgripp tire tracks found at the scene. Affiant did not and never has had mudgripp tires on his truck. The State's own witnesses verified that affiant did not have mudgripp tires.

13. Information about DNA in the case was passed to affiant through a lab worker's boyfriend or husband who was in the same cell block of the Santa Rosa County jail at the time of DNA testing. DNA was found on the body of the victim, but when the lab confirmed that a 2nd DNA not of affiant found, the State chose not to use that evidence.

14. Once affiant learned of Pensacola Crime Lab being investigated, affiant wrote letters to several agencies to inquire the extent of corruption in the lab and the status of the female employed in the Pensacola Crime Lab in 1988-1989 tainting cases by sharing details of lab tests with inmates in the Santa Rosa County jail by phone through her fiancee/husband. No one has replied to the inquiries, probably because the extent of corruption is massive (good ol' buddy system covering up for each other).

15. While affiant sought appeal, the court ordered all evidence in the case be destroyed August 8, 1995, signed by Judge Paul A Rasmussen, Complaint No. 95023880.

16. Affiant's wife, Leann Spencer's, original statement to police was that affiant was home with her at the time of victim's death. Defense attornies at both trials chose not to call her back from out of state to testify to that fact.

17. Affiant also had a second alibi witness, Mr. Robert "Bud" Peebles, who was with him near his home at the time placing affiant out of the distance and time of the murder.

18. Robert Peebles, Jr. recalled clearly being in the yard with his father "Bud" Peebles burning off copper wire when their home was surrounded by Santa Rosa authorities who questioned Bud about seeing a broken down red Toyota on Dec. 18, 1988. Bud said he stopped to help at about 8:30 P.M. And returned the next morning and pulled the truck a few miles to affiant's home. Bud stated he would have testified to this, but was never asked.

19. Affiant helped the victim, 45-year old Mrs. Geraldine Lawrence, while she was attempting to hide from her extremely violent and abusive husband Roy Lee Lawrence. Geraldine requested affiant to give her a ride from Pensacola to her mother's home in

Pace.

20. After they arrived at Margie Baggett's (victim's mother), Geraldine made a phone call to Crime Stoppers giving directions to police where Roy Lawrence could be found hiding/living in his car at a lake in Century and that he was wanted by police. Affiant was not allowed to testify before the jury regarding the phone call that was made by the victim.

21. Nor was affiant allowed to testify concerning Ricky Lawrence (nephew of Roy Lawrence) being placed in the Santa Rosa County jail along with affiant, where upon seeing a TV news report concerning affiant's upcoming murder trial, Ricky blurted out in front of at least five inmates watching the TV news that Ricky's uncle Roy had told Ricky that he (Roy) had murdered Geraldine. Ricky stated that he would not repeat this to the authorities out of fear his uncle Roy would kill him. Those witnessing Ricky's statement reported what they heard to Public Defender Investigator Jim Martin. Ricky Lawrence's brother would later die from a shotgun blast to the head in the presence of Roy Lee Lawrence.

22. Roy Lawrence, the victim's husband, found affiant and Geraldine at Margie Baggett's where Roy took Geraldine with him and that was the last she was seen alive. Margie Baggett stated the man she last saw had no mustache, where as affiant had a thick mustache.

23. Affiant received a letter, dated May 22, 2009, from Elizabeth Livingston, cousin to Roy Lee Lawrence, where she stated that Roy or Ricky Lawrence killed Geraldine. Affiant does not know and has never met Elizabeth Livingston.

24. The letter also told affiant of a book, "Flesh Collector," by Fred Rosen, which tells of several murders by the Lawrence family and one ruled as an "accident." Roy Lee Lawrence is mentioned in the mix of these murders. The book describes Roy as one who was last seen with the victims alone. One victim was found near where Geraldine (Gerie) was found and likewise strangled or drowned.

25. The book further describes several of the Lawrences as members of the Ku Klux Klan, and involved in various other crimes and murders, including Roy's nephew, Wesley Lawrence, where Roy handed Wesley a shotgun that "accidentally" went off.

26. Roy has also been cleared by Santa Rosa County investigators in several murders, which included at least two of his nephews and his wife, Gerie.

27. Investigator Jim Spencer owns the land where Gerie was murdered.

28. Affiant has discovered that Gerie was involved in the murder of a man named Pee Wee, which took place at Ms. Baggett's house and should have been disclosed to affiant at trial.

29. Elizabeth Livingston mentioned knowing Pee Wee and his family in her one and only letter to affiant. Affiant met an inmate at Walton C.I. who owns a saw mill in Pace, Florida, who said Pee Wee was killed due to a romance with Geraldine. This red-haired inmate gave affiant his name and address before returning to his home in Pace. However, all of affiant's legal work, along with his address book, Holy Bible, even pictures of his

deceased mother, was confiscated by FDOC and never returned. Affiant has filed several motions to the 1st DCA, after exhausting the grievance system, to return his legal work and other property, pictures, Bible, etc., all to no avail. This has delayed affiant in properly filing appeals.

30. On the night of affiant's arrest, he learned fast that Investigator Larry Bryant was a corrupt cop. Affiant invoked his right to remain silent and refused to sign a waiver sheet to give up his right. Larry Bryant and Jim Spencer threatened arresting affiant's mother and wife if he would not speak to them. They told affiant that Geraldine's husband and her brother were both in the Santa Rosa County jail and that it would be in affiant's best interest to speak with these two investigator's before being placed in cell block. After being grilled for hours by Bryant and Spencer they placed affiant in a solitary cell where he could not use the phone or even see another person, a total violation of all Due Process rights. Bryant testified affiant was held two days in solitary because Geraldine's brother was in the jail.

31. While Bryant and Spencer grilled affiant, it was Bryant that stated something about "niggers being in that filthy house." He was speaking of Ms. Baggett's home. Affiant, in trial, repeated what Bryant said even though affiant still does not know why Bryant said it. However, in light of the book "Flesh Collector" details within Roy Lee Lawrence's home a Klan robe openly on display and human body parts of two separate victims. Clearly Roy is a very strange character to say the least.

32. Roy Lee Lawrence was the original suspect in his wife's death. Yet there has never been any police reports published concerning him being questioned. Nor has any report concerning Roy's alibi been published. Roy nor his alibi has never been depositioned as to their whereabouts on Dec. 18, 1988. Judge Kenneth. Bell refused to allow affiant's new attorney to deposition anyone before affiant's new trial, a total violation of all Due Process rights under the U.S. Constitution. Shortly thereafter, Judge Bell resigned from the bench after committing a fraud.

"The sword of the law should never fall but on those whose guilt is so apparent as to be pronounced by their friends as well as foes"

-- Thomas Jefferson

Further affiant sayeth not:

Notary

Tony O. DuPree

Tony O. DuPree

Tony DuPree, DC# 120528
~~Walton Correctional Institution~~
~~691 Institution Road~~
~~DeFuniak Springs, FL 32433~~

State of Florida)
) ss
County of Walton)

Subscribed and sworn to before me this __ day of July, 2017, by Tony DuPree, who produced his inmate identification card and did take an oath.

{SEAL}

CATHINEA DANIELS
Notary Public - State of Florida
Commission # GG 013675
My Comm. Expires Aug 5, 2020
Bonded through National Notary Assn.

Notary, Signature

Notary, Printed Name

REASONS FOR GRANTING THE PETITION

The allegation of illegal conviction was an exceptional circumstance warranting relaxation of the law of the doctrine, 881 So. 2d at 17. Also, Brumit v. State, 971 So. 2d 205, 33 Fla. L. Weekly D168; (Fla. App. 4 Dist. 2007). Petitioner here in has shown illegal conviction.

Martinez v. Ryan, 198 S. Ct. 130 (2012) - The Supreme Court noted that while confined to prison, a prisoner is in no position to develop the evidentiary basis for a claim of ineffective assistance, which often turns on evidence outside the trial record.

Petitioner respectfully requests this Honorable Court to reverse conviction and sentence, or appoint conflict free counsel to help Petitioner with the complexities of this case, investigating statements etc; set appropriate hearings, vacate sentence and conviction or grant any other relief essential to ensure that miscarriage of justice within its reach are surfaced and corrected.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tony DuPree

Date: Aug 22, 2020