IN the Supreme court of the United States

IN RE WAYNE M. BEATON,
Petitioner

/

S.ct. case No.:

In the Supreme court of the United States
on Extraordinary Writ review of A
State court's judgment

Petitioner's Appendix with Exhibits to
Extraordinary writ Petition

Wayne Beaton,
Petitioner/Prisoner, Pro se

Wayne M. Beaton
Prisoner ID #469447
Florida State Prison
P.O. Box 800
Raiford, Fl. 32026

APPendix Table of contexts

EXhibiT # 1:

State's 4TH D.C.A. initial order and order denying rehearing on petitioner's direct appeal in 1998

EXhibiT # 2:

State's 4TH D.C.A. order held in Beaton v. State, 709 So.2d. 172 (Fla. App. 4 Dist. 1998)(referrence to case at hand in FooTnote)

EXhibiT # 3:

State's 4TH D.C.A. order held in Beaton v. State, 162 So.3d. 126 (Fla. App. 4 Dist. 2014) (stating reason that conFlicts with this coart)

EXhibiT # 4:

State's 4TH D.C.A. and Florida supreme court's orders in petitioner's case on Habeas corpus petitions and other petitions)

EXhibiT # 5:

Florida supreme court's order dismissing EXtraordinary writ Petition on 8-25-2020)

EXhibiT # 6:

EXcerpt of transcripts of local Police officer testimony during hearing of Motion to suppress as to not advising petitioner of Miranda rights)

EXhibiT # 7:

SheriFF officer's Police report as to religious coercion of petitioner

EXHIBIT # 8:

Excerpt of transcripts of local police officer testimony as to the inconsistent details of the incriminating statement petitioner made

EXHIBIT # 9:

Excerpt of trial transcripts of C.S.I. officer testimony as to no evidence connecting petitioner to the crime, F.B.I. lab report, and medical report

EXHIBIT # 10:

Federal, Southern District court of Florida and the united states court of Appeal For the Eleventh circuit courts' orders denying Habeas corpus and certificate of Appealibility

EXHIBIT # 11:

Transcript excerpts in referrence to petitioner being in the Sheriff's custody and the Sheriff officer reading him his Miranda rights at 4:44 A.M. and questioning petitioner until 6:08 A.M.

EXHIBIT # 12:

Transcripts excerpts in regards to the Hearing of the Motion to suppress

Wayne Beaton

APPENDIX

EXHIBIT - 1

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT JANUARY TERM 1998

WAYNE BEATON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

CASE NO. 97-0725

Decision filed February 18, 1998

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Marvin U. Mounts, Jr., Judge; L.T. Case No. 94-9810 CFA02.

Charles W. Musgrove, West Palm Beach, for appellant.

Robert A. Butterworth, Attorney General, Tallahassee, and Myra J. Fried, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

AFFIRMED.

STONE, C.J., GUNTHER and POLEN, JJ., concur.

NOT FINAL UNTIL THE DISPOSITION OF ANY TIMELY FILED MOTION FOR REHEARING.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

WAYNE BEATON

Appellant(s),

vs.

STATE OF FLORIDA

Appellee(s).

CASE NO. 97-00725

L.T. CASE NO. 94-9810 CFA02
PALM BEACH

June 10, 1998

BY ORDER OF THE COURT:

ORDERED that appellant's motion filed March 11, 1998, for rehearing is hereby denied.

I hereby certify the foregoing is a true copy of the original court order.

MARILYN BEUTTENMULLER
CLERK

cc: Charles W. Musgrove
Attorney General-W. Palm Beach
Dorothy H. Wilken, Clerk
Wayne Beaton

/CH

EXHIBIT 2

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT JANUARY TERM 1998

WAYNE BEATON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

CASE NO. 97-0812

Opinion filed April 1, 1998

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Marvin U. Mounts, Jr., Judge; L.T. Case No. 94-9887CF A02.

Charles W. Musgrove, West Palm Beach, for appellant.

Robert A. Butterworth, Attorney General, Tallahassee, Maya Saxena and Douglas Gurnic, Assistant Attorneys General, Fort Lauderdale, for appellee.

POLEN, J.

Appellant Wayne Beaton appeals his conviction of burglary while armed and wearing a mask, grand theft, and four counts of dealing in stolen property. Among his five points raised, he alleges the trial court erred in denying his request to represent himself and in convicting him of both theft and dealing in the same stolen goods. We agree and reverse accordingly as to both these points.

An accused has the right to self-representation so long as the right to the assistance of counsel is knowingly and intelligently waived. Faretta v. California, 422 U.S. 806 (1975). In this regard, the trial court must conduct a thorough inquiry into the defendant's capacity to make an intelligent and understanding waiver. Fla.R.Crim.P. 3.111(d) (1995). The court is not required to inquire into the defendant's competence to represent himself. See Godinez v. Moran, 509 U.S. 389, 399 (1993) (quoted in Hill v. State, 688 So. 2d 901, 905 (Fla. 1996), cert. denied, 118 S.Ct. 265 (1997)).

While we believe the better practice is for trial judges to make a formal inquiry under Faretta before concluding that the defendant is not competent to waive his right to counsel, we acknowledge that, often, as in this case, a judge's familiarity with a particular defendant may prompt him to conclude that that defendant is not competent to waive that right. Notwithstanding such familiarity, Faretta still requires the judge to make a sufficient record that indicates how the defendant's background, including his age, mental status, and education, affects his competency to waive his right to counsel.

Here, the record reflects that the trial judge was familiar with Beaton because of other cases in which Beaton had appeared before him. Based on this familiarity, the judge summarily concluded that, due to Beaton's overall lack of knowledge of trial procedure, he would not receive a fair trial if he were allowed to represent himself. As the judge based his decision on Beaton's competence to represent himself, as opposed to his competence to waive his right to counsel, and failed to lay a proper record to satisfy Faretta, we find that denial of Beaton's request was an abuse of discretion. See State v. Bowen, 698 So. 2d 248 (Fla. 1997), cert. denied, 66 U.S.L.W. 3473 (1998); Hill v. State, 688 So. 2d at 905.

We also reverse based on Beaton's conviction for both theft and dealing in the same stolen goods. As the state properly concedes, his conviction on both charges violates double jeopardy under section 812.025, Florida Statutes (1995).

We reject Beaton's argument, however, that the trial court should have suppressed his confession based on the failure of the officers in question to

have reread his Miranda rights before questioning him about the burglary of the victim below.[1] Although he waived his rights after he was initially stopped, albeit for a different crime than that with which he was charged below, he contends the officers were required to readvise him of his rights once their line of questioning changed. We disagree, since Miranda does not require that, "after effective waiver, each individual questioning the defendant during a single continuing session of interrogation must, prior to asking any questions, readvise the defendant of his Miranda rights." Enriquez v. State, 449 So. 2d 845, 848 (Fla. 3d DCA 1984); see also Nixon v. State, 572 So. 2d 1336 (Fla. 1990).

As to the other points raised on appeal, we affirm.

AFFIRMED in part, REVERSED in part and REMANDED for a new trial in accordance with this opinion.

STONE, C.J., and GUNTHER, J., concur.

NOT FINAL UNTIL THE DISPOSITION OF ANY TIMELY FILED MOTION FOR REHEARING.

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[1]Beaton has raised this argument numerous times in his six appeals before this court. We have already rejected this argument twice in case numbers DN 97-0726 and DN 97-0725.

EXHIBIT 3

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2014

WAYNE M. BEATON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D14-2400

[November 19, 2014]

Appeal of order denying rule 3.800 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Robin Rosenberg, Judge; L.T. Case No. 501994CF009810A.

Wayne M. Beaton, Bowling Green, pro se.

No appearance required for appellee.

ON ORDER TO SHOW CAUSE

PER CURIAM.

In case number 4D14-2400, Wayne Beaton appealed the denial of a petition for writ of habeas corpus that was treated as a rule 3.800(a) motion to correct an illegal sentence, and this Court affirmed. Because he has repeatedly raised the same challenges to his 1996 convictions and sentences, we issued an order to show cause why he should not be prohibited from further *pro se* filing and referred to prison officials for disciplinary proceedings. *See State v. Spencer*, 751 So. 2d 47 (Fla. 1999); *see also* § 944.279(1), Fla. Stat. (2013). Beaton was previously issued a warning about frivolous filing in case number 4D11-3944 and was issued an order to show cause regarding sanctions in case number 4D13-143. He continues to raise the same claims regarding the admissibility of an incriminating statement and challenges to the grounds for his upward departure sentences.

This Court has again considered the merits of his claims and found no manifest injustice. We have repeatedly found that the questioning was

part of a single continuing session of interrogation and the officers did not have to re-advise him of his *Miranda* rights. Beaton's sentences are not illegal, and the grounds for departure cannot be challenged in a postconviction motion. *See Wright v. State*, 126 So. 3d 1204 (Fla. 4th DCA 2012); *Austin v. State*, 874 So. 2d 47 (Fla. 4th DCA 2004). We also disagree with Beaton that the trial court did not cite any valid grounds for an upward departure sentence.

Having reviewed Beaton's response to this Court's order, we find that he has not shown any cause why sanctions should not be imposed for abusive filing. Accordingly, we impose sanctions. The Clerk of this Court is directed to no longer accept any paper filed by Wayne Beaton unless the document is signed by a member in good standing of the Florida Bar. Beaton has litigated the same claims in this Court numerous times, and the appeal in this case is frivolous and an abuse of process. As a result, the Clerk is directed to forward a certified copy of this opinion to the appropriate institution for consideration of disciplinary procedures pursuant to the rules of the Department of Corrections. *See* § 944.279(1), Fla. Stat. (2013).

WARNER, STEVENSON and CIKLIN, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

EXHIBIT 4

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

WAYNE M. BEATON

Petitioner(s),

vs.

STATE OF FLORIDA

Respondent(s).

CASE NO. 98-03355

L.T. CASE NO. 94-9810 CFA02
PALM BEACH

November 9, 1998

BY ORDER OF THE COURT:

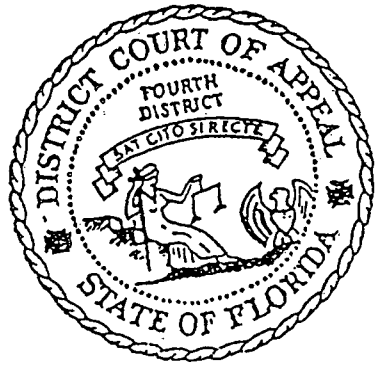
ORDERED that the petition for writ of habeas corpus and the amendment to the petition are hereby denied.

I hereby certify the foregoing is a
true copy of the original court order.

MARILYN BEUTTENMULLER
CLERK

cc: Wayne Beaton
Attorney General-W. Palm Beach

/DM



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

WAYNE M. BEATON

Petitioner(s),

vs.

STATE OF FLORIDA

Respondent(s).

CASE NO. 98-03355

L.T. CASE NO. 94-9810 CFA02
PALM BEACH

December 22, 1998

BY ORDER OF THE COURT:

ORDERED that petitioner's motion filed November 23, 1998, for rehearing is hereby denied.

I hereby certify the foregoing is a true copy of the original court order.

MARILYN BEUTTENMULLER
CLERK

cc: Wayne Beaton
Attorney General-W. Palm Beach

/CH

DISTRICT COURT OF APPEAL
FOURTH DISTRICT
STATE OF FLORIDA

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

WAYNE M. BEATON

Petitioner(s),

vs.

STATE OF FLORIDA

Respondent(s).

CASE NO. 99-02111

L.T. CASE NO. 94-9810 CFA02
PALM BEACH

July 1, 1999

BY ORDER OF THE COURT:

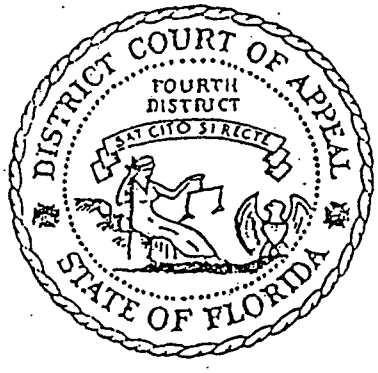
ORDERED that the petitioner's June 21, 1999, motion for leave to file a second petition for writ of habeas corpus is granted, and the petition is hereby denied.

I hereby certify the foregoing is a
true copy of the original court order.

MARILYN BEUTTENMULLER
CLERK

cc: Wayne Beaton
Attorney General-W. Palm Beach

/PB



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

September 7, 1999

CASE NO.: 99-2111
L.T. No. : 94-9810 CFA02

Wayne M. Beaton v. State Of Florida

Appellant / Petitioner(s), Appellee / Respondent(s).

BY ORDER OF THE COURT:

ORDERED that petitioner's motion filed July 16, 1999, for rehearing is hereby denied.

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

Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal

Served:

Wayne Beaton Attorney General-W.P.B.

ch

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
JULY TERM 2001

WAYNE M. BEATON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

CASE NO. 4D01-1325

Decision filed August 15, 2001

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Marvin U. Mounts, Jr., Judge; L.T. Case No. 94-9810 CFA02.

Wayne M. Beaton, Madison, pro se.

No appearance required for appellee.

PER CURIAM.

AFFIRMED.

GUNTHER, WARNER and KLEIN, JJ., concur.

NOT FINAL UNTIL THE DISPOSITION OF ANY TIMELY FILED MOTION FOR REHEARING.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

October 2, 2001

CASE NO.: 4D01-1325
L.T. No. : 94-9810 CFA02

WAYNE M. BEATON v. STATE OF FLORIDA

Appellant / Petitioner(s), Appellee / Respondent(s).

BY ORDER OF THE COURT:

ORDERED that appellant's motion filed August 27, 2001, for rehearing is hereby denied.

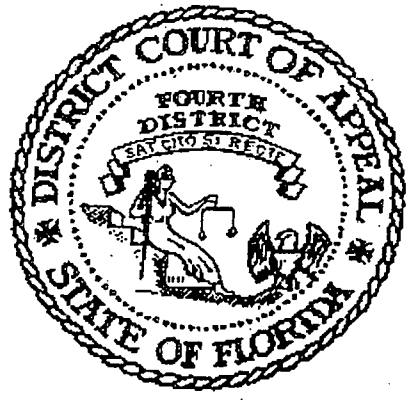
I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Wayne Beaton Attorney General-W.P.B.

ch

Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal



Fourth District Court of Appeal
1525 Palm Beach Lakes Blvd.
West Palm Beach, Florida 33401
(561)-242-2000

ACKNOWLEDGMENT OF NEW CASE

DATE: November 1, 2011

STYLE: WAYNE M. BEATON v. EDWIN BUSS, Secretary, etc.

4DCA#: 4D11-3944

The Fourth District Court of Appeal has received the Petition reflecting a filing date of 10/28/11

The county of origin is Palm Beach.

The lower tribunal case number provided is 94-9810 CFA02

The filing fee is No Fee-Habeas Corpus.

Case Type: Habeas Corpus Criminal

The Fourth District Court of Appeal's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

Please review and comply with any handouts enclosed with this acknowledgment.

cc: Wayne M. Beaton Attorney General-W.P.B.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

November 22, 2011

CASE NO.: 4D11-3944
L.T. No. : 94-9810 CFA02

WAYNE M. BEATON	v.	EDWIN BUSS, SECRETARY, ETC.
Appellant / Petitioner(s),		Appellee / Respondent(s).

BY ORDER OF THE COURT:

ORDERED that the petition for writ of habeas corpus filed October 28, 2011, is hereby denied on the merits; further,

ORDERED that petitioner, Wayne M. Beaton, is hereby directed to Florida Statutes, section 944.28(2), providing that all or part of any gain time earned by an inmate may be forfeited on account of being found by an appellate court to have brought a frivolous claim, proceeding or appeal in any court. The court hereby warns petitioner that further filing of motions, proceedings or appeals lacking any arguable merit may result in the imposition of sanctions, including dismissal of the appeal or proceeding and a finding that he has filed a frivolous claim or appeal within the meaning of section 944.28(2).

WARNER, LEVINE and CONNER, JJ., Concur.

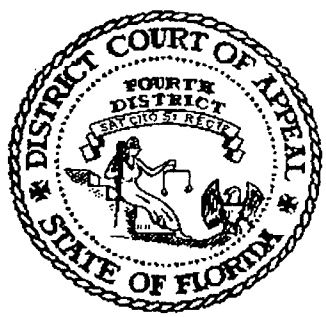
I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Wayne M. Beaton Attorney General-W.P.B.

dl

Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal



Fourth District Court of Appeal
1525 Palm Beach Lakes Blvd.
West Palm Beach, Florida 33401
(561)-242-2000

ACKNOWLEDGMENT OF NEW CASE

DATE: January 17, 2013

STYLE: WAYNE M. BEATON v. STATE OF FLORIDA

4DCA#: 4D13-143

The Fourth District Court of Appeal has received the Petition reflecting a filing date of 1/15/13

The county of origin is Palm Beach.

The lower tribunal case number provided is 94-9810 CFA02

The filing fee is No Fee-Habeas Corpus.

Case Type: Habeas Corpus Criminal

The Fourth District Court of Appeal's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

Please review and comply with any handouts enclosed with this acknowledgment.

cc: Wayne M. Beaton
469447

Attorney General-W.P.B.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

May 30, 2013

CASE NO.: 4D13-0143, 4D13-0720
L.T. No.: 94-9810 CFA02 &
94-9974 CFA02

WAYNE M. BEATON v. STATE OF FLORIDA

Appellant / Petitioner(s) Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that the petitions for writ of habeas corpus are hereby denied on the merits; further,

ORDERED that petitioner's motion for leave to file second habeas corpus filed January 15, 2013, is hereby denied; further,

ORDERED *sua sponte* that this court determines that case numbers 4D13-143 and 4D13-720 present the same issue and are consolidated for all purposes. Petitioner improperly attempts to attack his 1996 convictions in the underlying cases through a petition in this court. *See Baker v. State*, 878 So.2d 1236, 1241 (Fla. 2004). Petitioner has filed numerous meritless, repetitive, and frivolous postconviction challenges, appeals, and petitions. The pending petitions repeat a procedurally barred claim of trial court error that this court expressly rejected in *Beaton v. State,* 709 So. 2d 172, 174 (Fla. 4th DCA 1998), *dismissed*, 718 So. 2d 166 (Fla. 1998). Petitioner was cautioned about sanctions in case number 4D11-3944 where he filed another procedurally barred and frivolous habeas corpus

petition attempting to challenge his convictions in these cases. The present petitions are frivolous. Petitioner's gross abuse of postconviction relief procedures interferes with this court's ability to consider legitimate claims. "Enough is enough." *Isley v. State*, 652 So. 2d 409, 410 (Fla. 5th DCA 1995); therefore,

ORDERED that within twenty (20) days of this order petitioner shall file a response with this court and show cause why this court should not impose the sanction of no longer accepting his *pro se* filings and why petitioner should not be referred to prison officials for disciplinary proceedings. *State v. Spencer*, 751 So.2d 47 (Fla. 1999); § 944.279(1), Fla. Stat. (2012).

MAY, C.J., STEVENSON and TAYLOR, JJ., Concur.

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

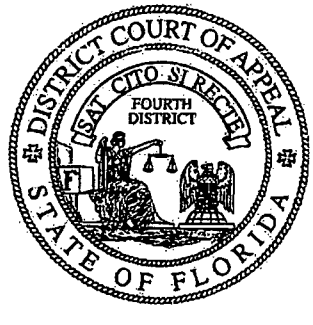
Served:

cc: Attorney General-W.P.B. Wayne M.Beaton 469447

dl

Marilyn Beuttenmuller

MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

June 14, 2013

CASE NO.: 4D13-0160
L.T. No.: 501994CF009810AXX

WAYNE M. BEATON v. STATE OF FLORIDA

Appellant / Petitioner(s) Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that appellant's motion filed May 24, 2013, for rehearing and for rehearing en banc is hereby denied.

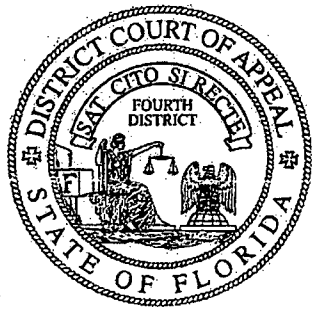
I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

cc: Attorney General-W.P.B. Wayne M.Beaton 469447

kb

Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal



IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

July 15, 2013

CASE NO.: 4D13-0143
L.T. No.: 94-9810 CFA02

WAYNE M. BEATON v. STATE OF FLORIDA

Appellant / Petitioner(s) Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that petitioner's motion filed June 14, 2013, for rehearing is hereby denied.

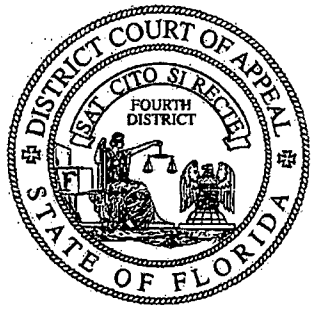
I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

cc: Attorney General-W.P.B. Wayne M.Beaton 469447

kb

Marilyn Beuttenmuller
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal



DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2014

WAYNE M. BEATON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D14-2400

[September 24, 2014]

Appeal of order denying rule 3.800 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Robin Rosenberg, Judge; L.T. Case No. 501994CF009810AXXXMB.

Wayne M. Beaton, Bowling Green, pro se.

No appearance required for appellee.

PER CURIAM.

Affirmed.

WARNER, STEVENSON and CIKLIN, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM BEACH, FL 33401

November 19, 2014

CASE NO.: 4D14-2400
L.T. No.: 501994CF009810A

WAYNE BEATON v. STATE OF FLORIDA

Appellant / Petitioner(s) Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that appellant's motion for rehearing filed October 14, 2014, is denied.

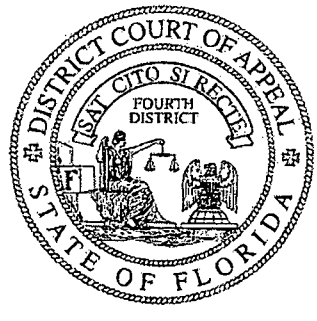
Served:

cc: Attorney General-W. P. B. Wayne M. Beaton 469447

lc

Lonn Weissblum

LONN WEISSBLUM, Clerk
Fourth District Court of Appeal



SID J. WHITE, CLERK
Supreme Court of Florida
500 SOUTH DUVAL STREET
TALLAHASSEE 32399-1927
(850) 488-0125

Mr. Wayne Beaton, #469447
Madison Correctional Inst.
P.O. Box 692 (F-2107-U)
Madison, FL 32341-0692

4/14/98 filed 4/13/98

WAYNE BEATON
v.
STATE OF FLORIDA

CASE NO. 92,767
DCA No. 97-0725

I have this date received the below-listed pleadings or documents:

Notice of Invoke Discretionary Jurisdiction of the Supreme Court of Florida (filed in DCA 4/6/98)

Please make reference to the case number in all correspondence and pleadings.

Most cordially,

Clerk, Supreme Court

ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

SJW/tsc
cc: Hon. Marilyn Beuttenmuller, Clerk
Ms. Myra J. Fried

Supreme Court of Florida

TUESDAY, APRIL 14, 1998

WAYNE BEATON,	*	
	*	
Petitioner,	*	
	*	
vs.	*	CASE NO. 92,767
	*	
STATE OF FLORIDA,	*	District Court of Appeal,
	*	4th District - No. 97-0725
Respondent.	*	
	*	
* * * * * * * * * * * * * * * *	*	

It appearing to the Court that it is without jurisdiction, the Petition for Review is hereby dismissed. Jenkins v. State, 385 So.2d 1356 (Fla. 1980).

No Motion for Rehearing will be entertained by the Court.

A True Copy

TEST:

Sid J. White
Clerk Supreme Court

TC

cc: Hon. Marilyn Beuttenmuller, Clerk
Hon. Dorothy H. Wilken, Clerk
Hon. Marvin U. Mounts, Jr., Judge

Mr. Wayne Beaton
Ms. Myra J. Fried

Supreme Court of Florida

TUESDAY, SEPTEMBER 6, 2011

CASE NO.: SC11-1557
Lower Tribunal No(s).: 94-9810CFA02

WAYNE M. BEATON vs. KENNETH S. TUCKER, ETC.

Petitioner(s) Respondent(s)

Because the Court has determined that relief is not authorized, this case is hereby dismissed. See Baker v. State, 878 So. 2d 1236 (Fla. 2004). Any motions or other requests for relief are also denied.

PARIENTE , LEWIS, QUINCE, POLSTON, and LABARGA, JJ., concur.

A True Copy
Test:

Thomas D. Hall
Clerk, Supreme Court

ab
Served:

WAYNE BEATON
JENNIFER ALANI PARKER
HON. SHARON BOCK, CLERK

Supreme Court of Florida

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

THOMAS D. HALL
CLERK
TANYA CARROLL
CHIEF DEPUTY CLERK
SUSAN DAVIS MORLEY
STAFF ATTORNEY

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

ACKNOWLEDGMENT OF NEW CASE

March 15, 2012

RE: WAYNE M. BEATON vs. KENNETH S. TUCKER, ETC.

CASE NUMBER: SC12-397
Lower Tribunal Case Number(s) : 94-9810CFA02

The Florida Supreme Court has received the following documents reflecting a filing date of 2/28/2012.

Petition For All Writs, appendix to petition and motion for leave for Court to accept jurisdiction for all writs.

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

FOR GENERAL FILING INFORMATION AND ADMINISTRATIVE ORDER NO. AOSC04-84, PLEASE VISIT THE CLERK'S OFFICE WEBSITE AT http://www.floridasupremecourt.org/clerk/index.shtml

jn
cc:
WAYNE BEATON
JENNIFER ALANI PARKER
HON. SHARON BOCK, CLERK

Supreme Court of Florida

THURSDAY, MARCH 15, 2012

CASE NO.: SC12-397
Lower Tribunal No(s).: 94-9810CFA02

WAYNE M. BEATON vs. KENNETH S. TUCKER, ETC.

Petitioner(s) Respondent(s)

The petition for writ of all writs, which was filed with this Court on February 28, 2012, does not comply with Florida Rule of Appellate Procedure 9.100(g) and is hereby stricken. Petitioner is directed, on or before March 26, 2012, to file a proper petition which shall not exceed 50 pages in length.

The failure to file a proper petition with this Court within the time provided could result in the imposition of sanctions, including dismissal of this case. See Fla. R. App. P. 9.410.

A True Copy
Test:

Thomas D. Hall
Clerk, Supreme Court

jn
Served:

WAYNE BEATON
JENNIFER ALANI PARKER

Supreme Court of Florida

THURSDAY, MAY 3, 2012

CASE NO.: SC12-397
Lower Tribunal No(s).: 94-9810CFA02

WAYNE M. BEATON vs. KENNETH S. TUCKER, ETC.

Petitioner(s) Respondent(s)

Because the Court has determined that relief is not authorized, this case is hereby dismissed. See Baker v. State, 878 So. 2d 1236 (Fla. 2004). Any motions or other requests for relief are also denied.

PARIENTE, LEWIS, QUINCE, POLSTON, and PERRY, JJ., concur.

A True Copy
Test:

Thomas D. Hall
Clerk, Supreme Court

kb
Served:

WAYNE BEATON ✓
JENNIFER ALANI PARKER
HON. SHARON BOCK, CLERK

Supreme Court of Florida

WEDNESDAY, OCTOBER 10, 2012

CASE NO.: SC12-397
Lower Tribunal No(s).: 94-9810CFA02

WAYNE M. BEATON vs. KENNETH S. TUCKER, ETC.

Petitioner(s) Respondent(s)

Petitioner's Motion for Rehearing is hereby denied.

POLSTON, C.J., and PARIENTE, LEWIS, QUINCE, and PERRY, JJ., concur.

A True Copy
Test:

Thomas D. Hall
Clerk, Supreme Court

kb
Served:

WAYNE BEATON
JENNIFER ALANI PARKER
HON. SHARON BOCK, CLERK

Supreme Court of Florida

WEDNESDAY, JANUARY 15, 2014

CASE NO.: SC13-2288
Lower Tribunal No(s).: 94-9810-CF-AO2

WAYNE M. BEATON vs. MICHAEL D. CREWS, ETC,

Petitioner(s) Respondent(s)

The petition for writ of habeas corpus is hereby transferred to the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida (Case No. 94-9810-CF-AO2), for consideration as a motion to correct sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). The transfer of this case should not be construed as an adjudication or comment on the merits of the petition, nor as a determination that the transferee court has jurisdiction or that the petition should be considered as a motion to correct sentence. The transferee court should not interpret the transfer of this case as an indication that it must or should reach the merits of the petition. The transferee court shall treat the petition as if it had been originally filed there on the date it was filed in this Court. Any determination concerning whether a filing fee shall be applicable to this case shall be made by the transferee court. Any and all pending motions in this case are hereby deferred to the transferee court.

Any future pleadings filed regarding this case should be filed in the above mentioned circuit court at 301 North Olive, 9th Floor, West Palm Beach, FL 33401.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

kb
Served:

JENNIFER ALANI PARKER
WAYNE M. BEATON
HON. PAMELA JO BONDI
HON. SHARON BOCK, CLERK

Supreme Court of Florida

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

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

ACKNOWLEDGMENT OF NEW CASE

December 30, 2014

RE: WAYNE M. BEATON vs. STATE OF FLORIDA

CASE NUMBER: SC14-2486
Lower Tribunal Case Number(s): 4D14-2400; 501994CF009810AXXXMB
Lower Tribunal Filing Date: 12/29/2014

The Florida Supreme Court has received the following documents reflecting a filing date of 12/29/2014.

Notice to Invoke Discretionary Jurisdiction

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER.

mh
cc:
HON. PAMELA JO BONDI
WAYNE M. BEATON
HON. LONN WEISSBLUM, CLERK

Supreme Court of Florida

FRIDAY, JANUARY 9, 2015

CASE NO.: SC14-2486
Lower Tribunal No(s).: 4D14-2400;
501994CF009810AXXXMB

WAYNE M. BEATON vs. STATE OF FLORIDA

Petitioner(s) Respondent(s)

Petitioner having filed a proper notice of dismissal pursuant to Florida Rule of Appellate Procedure 9.350(b), it is ordered that the petition for review be and the same is hereby voluntarily dismissed.

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

ab
Served:

HON. PAMELA JO BONDI
WAYNE M. BEATON
HON. SHARON BOCK, CLERK
HON. LONN WEISSBLUM, CLERK
HON. ROBIN LEE ROSENBERG, JUDGE

EXHIBIT 5

Supreme Court of Florida

TUESDAY, AUGUST 25, 2020

CASE NO.: SC20-1090
Lower Tribunal No(s).:
501994CF009810AXXXMB

WAYNE M. BEATON vs. MARK S. INCH, ETC.

Petitioner(s) Respondent(s)

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

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

A True Copy
Test:

John A. Tomasino
Clerk, Supreme Court

db
Served:

LANCE ERIC NEFF
WAYNE M. BEATON
CELIA TERENZIO
HON. SHARON REPAK BOCK, CLERK

EXHIBIT 6

Q. Why not?
A. The Courts say we have, have not -- he's already been Mirandized.
Q. When you went in, spoke with the defendant, what did you learn from him about the case you were investigating?
A. He said he didn't do it.
Q. Did you ask him for permission to search his residence?
A. Yes, yes, I did.
Q. How did that come about?
A. I said, if you didn't do it, can I look in your house, see if there's physical evidence in your house that came from the burglary, robbery, rape.
Q. What did he say?
A. He said, if I can go with you, we will go.
Q. This was the only qualification about agreeing to consent to search his residence?
A. Yes.
Q. Did you in fact have any problem with the defendant requesting to go to his residence in order to conduct the search?
A. No, I didn't.
Q. Did you have him sign any paper work

indicating that he was willing to consent to the search?

A. Yes, I did.

Q. And this was done how long after his interview ended with Detective Becksfort?

A. I would say about maybe 30 or 40 minutes.

Q. After -- he then has consented to the search, what did you do?

A. We went to his house.

Q. Who did?

A. Well, I remember I went, Alice Gold went, the deputy sheriff, Sergeant Deischer went, Deputy Sheriff Backherns went. There was another guy but I don't remember his name.

Q. And you all went to the defendant's home?

A. That's correct.

Q. When you got to the defendant's home, how did you get in?

A. Mr. Beaton directed how to get in.

Q. You went to the front door of his residence?

A. I seem to recall it was an alarm on the door. Mr. Beaton disarmed it so we could go in.

Q. When you went in, where was the defendant supposed to wait while you did the search?

CROSS EXAMINATION

BY MR. SOSA:

Q. Detective Fraser, you first saw Mr. Beaton, the defendant, at the Palm Beach Sheriff's Office that morning?

A. You are correct, sir.

Q. And, at the time you first saw him there, Detective Becksfort had just concluded his statement; is that correct?

A. Correct.

Q. How long did you speak to Mr. Beaton for -- after Detective Becksfort, approximately?

A. Between twenty and thirty minutes, I think.

Q. That conversation was not taped; is that correct?

A. You are correct, sir.

Q. You indicated already that you did not read the defendant his Miranda right during that questioning?

A. Correct.

Q. You also indicated that your questioning was limited to your case that you were investigating regarding a sexual battery and burglary that happened in the jurisdiction of West Palm Beach?

A. You are correct, counselor.

Q. As far as, if you know, what was the defendant in custody at that, that particular time, what was he in custody for?

A. Prowling and home invasion.

Q. It had nothing to do with your case; is that correct?

A. No, sir, no.

Q. You indicated that the defendant knew exactly what you were there for?

A. Yes, sir.

Q. When exactly did he know what you were there for?

A. Approximately about 10 minutes, 10, 15 minutes into the conversation when I struck up a conversation with him.

Q. At the police station, PBSO or at his residence later on?

A. PBSO.

Q. Did the defendant deny to you any knowledge regarding the case you were investigating?

A. Sure he did.

Q. Did he say anything during the 20 to 30 minutes you spoke to him that led you to believe that maybe he knew something, he was involved in

in any way?

A. No.

Q. Did you request then that he sign a request form to search his home for any of the property taken from that burglary; is that correct?

A. Yes, sir.

Q. He agreed to that?

A. Yes, sir.

Q. The next time you spoke with him is over at his home, oh, what, maybe half an hour, hour?

A. About a half hour, yeah.

Q. About a half hour later?

A. Yes.

Q. What was it at his home that caused the defendant to tell you what he did not tell you an hour ago at the station. What was it that happened in your mind that all of a sudden now he is cooperating or telling you?

A. We found a bracelet that's what did it. We found the bracelet.

Q. You found the bracelet?

A. Yes.

Q. After that he started to indicate to you that he was involved in some way?

A. You are correct, yeah.

Q. Okay. At that point did you then get the tape recorder or was he already on the tape?

A. He did not make any incriminating statements to me until I had the tape recorder on.

Q. So the first time he makes incriminating statements to you regarding your case is after the tape is on?

A. You are correct, counselor.

Q. What caused you to put on a tape or have him on tape after he was in the home?

A. Pretty good police procedure to show we can get a confession to put him on tape.

Q. Did you anticipate a confession at that point?

A. I anticipated a confession after the bracelet was found. I went back in the room, asked him if he was willing to talk to me about the case.

Q. Up to that point he had denied to you repeatedly any involvement in that case?

A. Constantly.

Q. Is that correct?

A. Constantly denied it.

Q. Now, the tape began, I think you were given a copy of the transcript here, at 9:47?

A. Yes, sir.
Q. Who else was with you in that room beside the defendant?
A. Detective Backherns.
Q. You did not, according to the transcripts of the tape, read the defendant his rights at the time; is that correct?
A. No.
Q. In fact, you never helped read him the rights?
A. Never did.
Q. Never discussed any specifics of his Miranda rights?
A. Never did.
Q. Even though you knew other departments were investigating unrelated cases, you assumed that Detective Becksfort Mirandized the defendant back around 4:30 in the morning or 5:00 was sufficient for your case; is that correct?
A. I certainly did.
Q. You indicated, I think your words were, the Court said, I don't have to, I don't know?
A. You are right.
Q. Something like that?
A. Yep.

You are Detective Fraser with the West Palm Beach Police Department, is that correct, sir?

A. Yes.

Q. You knew Wayne Beaton, is that correct?

A. Yes.

Q. You were the officer involved in investigating the case we are here for today, the sexual battery charged against Mr. Beaton?

A. Correct.

Q. On the night in question, we are talking about December 22, the early morning hours of December 22, you first met with Mr. Beaton at the Palm Beach County Sheriff's Office?

A. Yes, sir.

Q. At that point in time prior to talking to Mr. Beaton, you were made aware or informed that Mr. Beaton had been Mirandized already?

A. Yes, sir.

Q. Now, you then briefly questioned him at the sheriff's office, is that correct, sir?

A. Yes, sir, it is.

Q. At that time Mr. Beaton denied any involvement in the case you were investigating, is that right, sir?

A. Yes, sir.

Q. At that point in time prior to questioning him, would it be fair to say you did not read him his Miranda rights?

A. You are right, yes.

Q. Do you understand you could have read him his Miranda rights and you elected not to?

A. That is absolutely correct.

Q. You asked Mr. Beaton for consent to search his house and he agreed to that, is that right?

A. Yes, he did.

Q. You indicated to him he had a right to refuse the consent to search his house?

A. Oh, sure.

Q. It was then that you and several other officers of the Palm Beach County Sheriff's Office went to Mr. Beaton's residence with Mr. Beaton?

A. Yes.

Q. Let's talk about what happened at the house. How many officers were there with you at that particular time?

A. I would say four.

Q. So it would be five officers including yourself?

A. Yes.

Q. Now, were you and the other officers

carrying firearms that were visible at that point in time?

A. Probably, yes.

Q. And Mr. Beaton's house is a small house?

A. Two bedrooms and a bath, living room and kitchen.

Q. As you all were inside the house, a search was conducted through his house?

A. Yes.

Q. And then a bracelet was uncovered by a detective, I believe. Is that right, sir?

A. Yes.

Q. That particular bracelet, had you seen that bracelet before?

A. Physically seen that bracelet, no.

Q. Had you seen anyone like it in the catalogue?

A. Yes.

Q. What kind of catalogue?

A. One of those like the discount jewelry stores have.

Q. Like Lurias?

A. Something like that, yes.

Q. When Detective Gold showed you the bracelet, you recognized it as the one you felt was involved

that was taken from Ms. Schaeffer, is that right, sir?

A. Yes.

Q. Now, at this particular point in time were other officers around you and Mr. Beaton?

A. At that particular point in time, Beaton and I were in his bedroom. Gold was asking if this is the bracelet I was looking for.

Q. What do you say to Mr. Beaton at that particular time?

A. I told him he should consider himself under arrest for sexual battery, home invasion.

Q. Did you consider him to be under arrest at that particular time?

A. Yes.

Q. Did you read him his rights at that particular time?

A. No.

Q. You recognized you could have read him his rights?

A. Sure, I could have.

Q. So you could have told him he had a right to remain silent?

A. Same answer, I could have.

Q. You could have told him he had a right to

have an attorney to be present at that particular time?

A. I could have, yes.

Q. Now, what was the reason why you didn't tell him at this particular point in time about his right to invoke his rights? Because you didn't want him to revoke his rights?

A. Yes. Also Mr. Beaton was aware the sheriff's office had read them, so I saw no need to read them.

Q. Had you made anything clear at this point in time where Mr. Beaton was from?

A. Yes.

Q. What information did you have?

A. I had information that he was from Georgetown, Guyana. That he had been in the country for three years.

That he had a temporary alien card to be here and that he worked at the Winn Dixie store in the greater West Palm Beach area.

Q. Had you had any information as to what his educational background was?

A. Yes, I did.

Q. What was your understanding of what his educational background was?

Q. But you would rather not?
A. Absolutely.
Q. So you could have instructed him at that point in time that he had a right to remain silent?
A. Sure.
Q. Now, you decided to take a taped statement from him after you had placed him under arrest, at that point in time after -- strike that.
Detective Gold finds the bracelet, correct?
A. Yep.
Q. At that time you felt that this was the same bracelet that was taken from Ms. Schaefer's residence?
A. Still do, yep.
Q. But at that time you definitely did?
A. Sure, I did.
Q. With that you showed it to Wayne and you indicated to him, he was under arrest for this particular charge involving Ms. Schaefer?
A. You're correct, yes.
Q. Is it at that time you choose to take a statement and you elected not to instruct him that he had a right to remain silent?
A. That's right.
Q. And you also could have instructed him that

EXHIBIT 7

talking to Beaton, did you have contact with him?

A. Probably two and a half, three hours.

Q. What were you doing at that time, with him?

A. I was on a consent to search of his residence.

Q. Sometime between the time that Detective Becksfort read him his rights and two and a half hours later, were you going with the defendant to his home?

A. No. I was at his residence. He was at the residence when I arrived there.

Q. And during your period of time, how long were you in the house with the defendant?

A. A good two hour, two and a half hours or so.

Q. At the time that you were in his house, what kind of search was going on; do you remember what kind of items?

A. Stolen property, items pertaining to a West Palm Beach case and other cases of burglary.

Q. What if anything did you indicate at that time to the defendant about his obligation to talk to you?

A. I told him, I advised him, asked him if he still understood his Miranda; that he didn't have

to talk to me. He said yeah. I just told him it might be in his best interest to talk to me.

Q. And did the defendant ever in your presence to you or to anyone else in your presence ever indicate to you that he was unwilling to talk?

A. No, ma'am. He was more than willing.

Q. And did you or anybody else in your presence ever threaten the defendant to get him to talk?

A. No, ma'am.

Q. Or touch him physically?

A. No, ma'am.

Q. Did you in fact have a conversation with the defendant about the prior burglaries that he had been involved in?

A. Yes, ma'am.

Q. Did the defendant at any time ever indicate to you that he wanted to stop talking to you and wanted to have an attorney be present with him?

A. No, ma'am.

Q. When you indicated that you told the defendant that he didn't have to talk to you if he didn't want to pursuant to the rights that had been read to him, you didn't formally read him rights again, did you?

LOBSTER. NUMEROUS SHOPPING CENTERS THEREABOUTS. MR. BEATON WAS FINALLY STOPPED ON WESTGATE AVE. HEADED TOWARD HIS HOUSE AT WHICH TIME HE RAN INTO A WOODED AREA AT THE DONALD RD. ON WESTGATE AND PURSUIT ON FOOT WAS MADE AT THAT TIME. THIS WAS APPROXIMATELY 3:15AM. IT SHOULD BE NOTED THAT THE WOODED AREA WAS A SMALL WOODED AREA ON THE SOUTHSIDE OF WESTGATE AVE. IT WAS VERY THICK WITH OVERGROWN BRUSH. MR. BEATON CAME OUT THE WESTEND OF THE THICKET AND WAS APPREHENDED BY D/S GOLD AND OTHER DETECTIVES STANDING THERE. MR. BEATON WAS TRANSPORTED TO THE DETECTIVE BUREAU OF PBSO HEADQUARTERS. K-9 UNIT RESPONDED AND DID A SEARCH AS BEST HE COULD HOWEVER THE ONLY THING K-9 FOUND WAS A HAT AND KEYS WHICH MR. BEATON HAD DROPPED JUST BEFORE ENTERING THE THICKET. AT APPROXIMATELY 0630HRS WE RESPONDED BACK TO THE THICKET AREA AS IT HAD BECOME DAYLIGHT TO SEE IF WE COULD FIND WHAT WE BELIEVED MIGHT BE EVIDENCE SUCH AS A GUN OR ANY OTHER KIND OF ITEMS DROPPED BY MR. BEATON IN THE WOODED AREA. UPON ARRIVAL AND SOMEWHAT SEARCHES DET. SGT. DONNA WRIGHT FOUND A WEAPON LAYING JUST INSIDE THE THICKET THIS BEING A SHORT BARRELED BLUE STEEL REVOLVER POSSIBLY A 38 WAS LATER IDENTIFIED AS A ROSSI 38 CALIBER. FURTHER ON IN THE THICKET AREA I FOUND TWO LIVE 38 ROUNDS LAYING APPROXIMATELY FIVE FEET APART AS IF THEY HAD BEEN DROPPED. D/S SGT. DONNA KIDD OF THE CRIME SCENE UNIT RESPONDED AND TOOK PHOTOGRAPHS AND TOOK THE GUN INTO EVIDENCE. UNITS THEN RESPONDED TO MR. BEATON'S RESIDENCE MYLA LANE WHERE OTHER UNITS WERE CONDUCTIN A CONSENT TO SEARCH ON MR. BEATON'S RESIDENCE. UPON ARRIVAL THERE ALSO PRESENT WAS DET. BILLY FRASIER OF THE WEST PALM BEACH POLICE DEPT. WHO WAS INVESTIGATIN A HOME INVASION ARMED RAPE WHICH HAPPENED ON EARLY MONDAY MORNING 9-19-94. IN THE PROCESS OF SEARCHING THE RESIDENCE DETECTIVES FOUND A SAMLL GOLD BRACELET WHICH HAD TWO DOLPHINS INTERCHANGEABLE. DET. FRASIER ADVISED THIS HAD BEEN ONE OF THE ITEMS TAKEN FROM THE RESIDENCE OF THE HOME INVASION RAPE. I THEN SAT DOWN WITH MR. BEATON IN HIS BEDROOM AND I BEGAN TALKING TO HIM ABOUT THE SITUATION. I ADVISED HIM THAT IT WAS CLEAR THAT HE HAD DONE THE RAPE DUE TO THE FACT THAT HE HAD THE BRACELET. AT THAT POINT HE SAID HE BOUGHT THE BRACELET. I SAID THAT WAS NOT POSSIBLE DUE TO THE FACT IT HAD BEEN TAKEN FROM THE SCENE OF THE HOME INVASION RAPE. I FURTHER TOLD MR. BEATON THAT WE HAD RECOVERED THE PROPERTY HE HAD PAWNED FRO THE OLD WOMAN'S HOUSE ON WILLOW POND WHICH WAS DONE IN A HOME INVASION EARLIER IN THE MONTH. MR. BEATON INQUIRED HOW MUCH TIME I THOUGHT HE WOULD SPEND IN JAIL I ADVISED HIM PROBABLY A LONG TIME HOWEVER THAT IF HE WAS HONEST AND TOLD THE TRUTH SHOWING SOME REMORSE THAT THE JUDGE MIGHT LOOK FAVORALE ON THAT AS FAR AS JAIL TIME WAS CONCERNED. I ALSO NOTICED THAT ON THE TV. MR. BEATON HAD A PLAGUE WITH THE LORD'S PRAYER ON IT. I ASKED MR. BEATON IF HE BELIEVED IN GOD AND HE ADVISED ME THAT HE WAS A CHRISTIAN AND HE DID BELIEVE IN GOD AND I ASKED HIM IF HE'D EVER READ THE BIBLEWHICH HE STATED HE HAD AT THAT POINT I ASKED HIM IF HE THOUGHT GOD WOULD CONDONE WHAT HAD HAPPENED WHICH HE ADVISED NO. I

FURTHER ASKED MR. BEATON THAT IF HE READ THE BIBLE DID HE UNDERSTAND THAT CONFESSION WAS GOOD FOR THE SOUL AND THAT'S WHAT GOD WANTED HIM TO DO AND HE ADVISED ME YES. I THEN ASKED HIM IF HE WOULD TELL ME ABOUT THE RAPE AT WHICH TIME HE ADVISED HE WOULD. BEFORE HE STARTED I WENT AND GOT DET. FRASIER FROM WEST PALM BEACH TO TAPE THE INTERVIEW IN REFERENCE TO THE RAPE AND HOME INVASION IN WPB. DURING THE INTERVIEW MR. BEATON TOLD DET. FRASIER THINGS ABOUT THE RAPE THAT ONLY THE PERSON WHO COMMITTED THE RAPE AND THE VICTIM WOULD KNOW. I FURTHER ASKED MR. BEATON ABOUT THE GUN THAT WE HAD FOUND IN THE WOODS WHERE WE HAD CHASED HIM EARLIER THAT MORNING. HE ADVISED THAT THAT WAS HIS GUN AND THAT IT WAS THE GUN THAT HE HAD WHEN HE RAPED THE FEMALE. FOR FURTHER DETAILS IN REFERENCE TO THE CONFESSION WILL HAVE TO BE DONE THROUGH THE TAPE TAKEN BY DET. FRASIER. FOLLOWING THE CONCLUSION OF THE INTERVIEW MYSELF AND DET. GOLD AND DET. VILLAREAL TOOK MR. BEATON IN THE VEHICLE WHO SHOWED US A COUPLE OF BURGLARIES THAT HE HAD DONE. HE ALSO POINTED TO THE HOME ON WILLOW POND WHICH IS JUST OFF OF MILITARY TRAIL AND ADVISED THAT THAT WAS WHERE THE HOME OF THE OLD WOMAN WAS WHERE HE WENT INTO AND STOLE JEWELRY FROM. FURTHER INVESTIGATION REVEALED THAT THE ROSSI WHICH WAS RECOVERED IN THE WOODS AND MR. BEATON SAID BELONGED TO HIM MAY HAVE BEEN STOLEN IN A BURGLARY ON 8-24-94 CASE NUMBER 94-097231. I DID CONTACT THE VICTIM IN THIS CASE HOLLY FREY WHO STATED SHE DID NOT HAVE A SERIAL NUMBER FOR THE WEAPON BUT THAT HER BOYFRIEND RICHARD DELGRANDE HAD BOUGHT THE GUN AT SPORTS AUTHORITY ON OKEECHOBEE.ON 9-23-94 I DID RESPOND TO THE SPORTS AUTHORITY ON OKEECHOBEE BLVD. WHERE I MET WITH THE MANAGER AND ASKED HER TO SEARCH HER RECORDS FOR THE SERIAL NUMBER OF THE WEAPONTHAT WAS BOUGHT BY MR. DELGRANDE SOMETIME IN JUNE OR JULY. I WAS ADVISED THAT MR. DELGRANDE HAD BOUGHT A ROSSI MODEL 68 38 CALIBER WEAPON ON 7-22-94 AND THE SERIAL NUMBER WAS AA360763. UPON RETURNING TO THE OFFICE I LEARNED THAT THAT DID MATCH THE SERIAL NUMBER TO THE GUN TAKEN IN THE WOODEN AREA THAT MR.BEATON SAYS BELONGS TO HIM. IN FURTHER CHECKING AND TALKING TO THE VICTIM I LEARNED THAT SHE WAS MISSING HER GOLD CLASS RING WHICH HAS A BLUE STONE WITH AN H ON IT AND 1988 ON THE RING. REMEMBERING THAT IN THE JEWELRY BOX TAKEN FROM MR. BEATON'S HOUSE WAS CLASS RING WHICH HAD THE BOTTOM CUT. I AGAIN WENT TO THE PROPERTY ROOM AND CHECKED THIS RING AND DID DETERMINED THAT THIS WAS IN FACT THE SAME CLASS RING DESCRIBED BY MS. FREY AS BEING STOLEN IN HER BURGLARY. MR. BEATON WILL BE CHARGED IN THAT PARTICULAR CASE AND INVESTIGATION CONTINUES INTO OTHER CASES BY DET. GOLD AND OTHER DETECTIVES.

DET. BACKHERMS/2020/9-26-94
SANDY RAMIREZ/4213/10-3-94

A. No, ma'am.

MS. McROBERTS: Thank you. I have no further questions of this witness.

CROSS EXAMINATION

BY MR. SOSA:

Q. Detective Backherns, you didn't get him to sign any card or require anything further beyond asking him if he wanted to talk to you; is that correct?

A. No, sir, I didn't.

Q. In fact, during the course of your conversation with him, you told him something to the effect that confession is good for the soul and things like that; isn't that correct?

A. Year.

Q. In fact, you made reference to the fact the defendant would, being a Christian and the Lord -- conversation along that line and he should get it out, so to speak?

A. I asked him if he was a Christian, yes, sir.

Q. First time you had contact with Mr. Beaton was in the home, correct, I mean that day?

A. Actually spoke to him?

Q. Yes.

time he wanted to, he didn't have to talk to me, can stop at any time, tell me anything.

Q. He had, apparently, according to your testimony been speaking freely?

A. Oh, yes, sir, yes, sir.

Q. Then why was it necessary for you to get into him being a Christian and confession being good for the soul, et cetera?

A. That's just the way I talked to him. I, you know, I usually do that. I have done it over the area.

Q. Okay. That was done after you allegedly told him that he didn't have to talk, that he was talking freely, is that right?

A. That's true.

Q. Somehow that came up in the course of your discussion with him?

A. Yes, sir.

Q. At any time did you think, did you feel or think that the defendant was somewhat reluctant to speak to, at all during your conversations with him at the home?

A. No. He was not reluctant to talk. He was -- no. We had a nice conversation.

MR. SOSA: Okay. Thank you, sir.

A. They asked if he wants to talk to me and he said, yes.

Q. Did you say anything else to him?

A. Did I say anything else to him?

Q. Yeah, to get him to make a statement.

A. Yeah.

Q. In fact, you told him, you advised him that he would probably would do a long time in jail; if he's honest and told the truth, showed some remorse, the Judge would look favorably; do you remember saying that to him?

A. It's in the report.

Q. Do you remember saying that to him?

A. Yeah.

Q. Do you remember saying that you also noticed at the top of the TV that Mr. Beaton had a black in the Lord's prayer, and you asked him if he believed in God, and he advised you that he was Christian and he believed in God. You followed up on that and you stated that whether or not God would condone what happened and he advised, no; is that right, sir?

A. That is correct.

Q. And then, basically, you advised him that it would be a good thing in God's eyes for him to make

a statement?

A. I told him a confession was good for the soul.

Q. Would you have been alone with Detective Fraser during this period of time in the bedroom area of Mr. Beaton's residence?

A. When the statement was taken?

Q. Yes.

A. Yes.

Q. Would anybody else be in the room beside you, Mr. Beaton, and Detective Fraser?

A. No.

Q. You weren't dressed like you are today; correct, sir?

A. No.

Q. In fact, you probably had on what you had on earlier in the morning hours, a T-shirt with some pants, and would your gun have been showing in your waistband area?

A. Yes, sir.

Q. Would that be the same for Detective Fraser?

A. I believe so, I don't remember what Detective Fraser was wearing.

Q. As far as the other officers in the house, they would have had weapons visible to anyone who

EXHIBIT 8

A. The way I have been trained, doesn't matter. He is still in custody. He can be in custody one time, it's a --

Q. -- Let me go back to the taped statement. I know you don't have it embedded in your mind. You had already spoken to the victim of the sexual battery; is that correct?

A. Oh sure, yes.

Q. You had taken from her, to the best of your ability, details of what happened?

A. Yes, sir.

Q. Isn't it true then in his taped confession to you there were several discrepancies regarding what the victim said to you and what the defendant said to you?

A. Sure there are.

Q. In fact, isn't it also true if you go through your statement, it is yourself who's telling the defendant what happened, then you are asking for yes and no responses?

A. Sometime, yeah.

Q. As a matter of fact, sometime a couple of pages down, you tell him that he should tell you what happened?

A. Sure.

Q. As opposed to you continuing to tell him what happened and him saying yes?

A. Sure I did.

Q. With regards to the gun, there was a gun involved in the sexual battery case?

A. Yes, sir.

Q. In fact, the victim said, described what happened to the .38 revolver?

A. That's correct.

Q. I believe she told you she was familiar with hand guns, owned a hand gun?

A. Yes.

Q. Isn't it repeated in the statement the defendant said all he had was a black BB gun.

That was his initial statement?

A. Yes.

Q. In fact, he said that a few times?

A. Sure he did.

Q. In fact, he maintained until Detective Becksfort said, all right, Wayne be honest, be honest, it was a real gun; isn't that correct?

A. Yes, sir.

Q. In fact, towards the end of the taped statement he again at the end, at the end of your discussion, general discussion says it was a BB

gun?

A. I don't know if he did that or not.

Q. He basically indicates all it was, was a BB gun?

A. Not all the time.

Q. With the exception, Becksfort said, be honest, you have to be honest, now it was a gun he, said yes, it's a gun?

A. Yes.

Q. In fact, you told him several times to speak up, Wayne, we cannot hear you?

A. He also told us he let a round go out of the gun.

Q. After you had mentioned that to him?

A. Sure.

Q. In fact, all the pertinent facts with respect to the confession here, the color of the victim's dress, what she was wearing, where the alleged rape took place, the point of entry, et cetera, all those essential details here vary from what the victim told you?

A. Yeah, except the one that really stands out in my mind, he volunteered the fact, Mr. Beaton your client, volunteered the fact that he threw a gray shirt or dress, I cannot recall over her head

when he raped her. That's exactly what was thrown over her head. He volunteered that fact.

Q. The only fact that he volunteered that you, yourself, or Detective Becksfort didn't inform him of prior to eliciting a yes response from him?

A. That I can think of right now, yes, sir.

Q. After the taped confession, you then placed the defendant under arrest for your case; is that correct?

A. Yes, sir.

Q. Were you aware or did anyone inform you that sometime after the -- defendant indicated that he wanted an attorney?

A. It seems to me to be in, in my recollection that I either saw over the media, or somebody told me that he wanted a lawyer after that, yeah.

MR. SOSA: Okay. I have nothing further. Thank you, sir.

THE WITNESS: Thank you, sir.

REDIRECT EXAMINATION

BY MS. SKILES:

Q. Detective Fraser, the tape basically speaks for itself, so any other information that the defendant volunteered that matched the crime of sexual battery is reflected on the tape; is that

particular involved about this particular incident; is that true, sir?

A. Yes, sir.

Q. You got a copy of your transcript up there with you of Wayne's statement?

A. Yeah, that we just heard the transcript that we all just heard, yes, sir.

Q. You got that with you?

A. Yes, sir.

Q. If you could take a look at page one, do you recall saying on the beginning of the statement, somewhere towards the beginning of the statement before he had indicated any responsibility, quote, okay, I told you before we went on tape that I am investigating a robbery that occurred at the Village Cross apartments during the early morning hours of Monday, September 19th, 1994?

A. Yes, sir.

Q. So, you did inform him of the whereabouts and time and location as to where that incident occurred; is that true, sir?

A. I did say that. That quote that you just made, I did say that, so I guess you're partially right, yes, sir.

Q. So you informed him as to the time and

sir?

A. Yes, sir.

Q. Now, you have indicated you have had lengthy experience as a police officer?

A. Yeah.

Q. And I imagine you have written perhaps hundreds, if not thousands of police reports?

A. Yes, sir.

Q. And I am sure in your training you're supposed to indicate all relevant facts involved?

A. Yes, sir.

Q. And you wrote a pretty lengthy police report in this particular case?

A. Yeah.

Q. Now, you wouldn't put things inaccurate in a police report, would you?

A. No, sir, I wouldn't.

Q. Again, you indicate that his statement was consistent in all aspects with the rape, except for the point of entry?

A. Yes, sir.

Q. Now, you're aware that Ms. Schaefer indicated to you in the statement she gave you in the early morning hours after the rape that she was wearing black panties?

A. Yes, I am.

Q. Now, you're aware that Mr. Beaton indicated to you that she was wearing white panties?

A. Yes.

Q. Would that be something that is consistent or inconsistent with Mr. Beaton with a rape scene?

A. Well, the only reason I said it was consistent, because it was dark.

Q. Sir, I am asking specific questions.

Is it consistent or inconsistent with the evidence at the rape scene and what was said to you from Ms. Schaefer in terms of the color of the panties? It calls for yes or no; is it consistent or not consistent.

MS. MCROBERTS: I am going to object to the form of the question and it's compound.

THE COURT: I will disallow the objection.

You may answer either yes or no, if you know the answer.

THE WITNESS: Yes, I know the answer, Judge.

THE COURT: And then you may explain what you mean by that answer.

THE WITNESS: Thank you, sir.

You're correct counselor, that's stuff was said, Cynthia said that she was wearing black panties. The defendant said she was wearing white panties, but there were two pairs of panties found at the scene, so black and white.

BY MR. SUSKAUER:

Q. Okay. Now, she also indicated to you that she was wearing a pink dress?

A. Yes.

Q. And during his statement, Mr. Beaton indicated to you that she was wearing a blue night dress?

A. Yes.

Q. Would that be consistent or inconsistent with the statement?

A. That's inconsistent.

Q. And Ms. Schaefer indicated to you that she was wearing -- excuse me, that the perpetrator was wearing a short sleeve blue T-shirt?

A. Yes, sir.

Q. And you're aware that Mr. Beaton, you just heard his statement, that he was wearing a black sweat shirt and black pants?

A. Yeah.

Q. I assume that would be inconsistent as well?
A. You're correct.
Q. Now, Ms. Schaefer also indicated to you in the early morning hours of the incident that this perpetrator had an accent which most closely resembled a Hispanic accent?
A. You're correct.
Q. And you're aware from speaking to Mr. Beaton that he speaks English with no Spanish accent?
A. He doesn't have an American accent, that's for sure.
Q. You're aware that he does not have a Spanish accent?
A. I am not an expert in accent stuff, I will conceive you to that he don't speak like a Cuban, but he's definitely got an accent.
Q. Now, you went on to question Mr. Beaton on that statement and there was something there which indicated that he admitted to using a condom and that it was Trojan and it was just like these, I think, he mentioned -- if I could just have a moment -- on page three, if you can check out your transcript for a moment, towards the bottom, you indicate, question, do you have a condom with you and then there was no response. And then it goes

down a little bit, is this the same question, is this the same type of condom that you had used.

I wasn't there, but were you showing Mr. Beaton the box of condoms?

A. Yes, I was.

Q. They were earlier shown into evidence, are you aware of that particular box?

A. Yeah.

Q. So you were showing him that specific box at that particular time; is that right, sir?

A. Yep.

Q. And you admit that the condom actually used was the same brand and the same green and white package?

A. Yes, sir.

Q. And the same texture, being ultra texture?

A. I asked those questions, yeah.

Q. Are you are aware there was a condom wrapper found at the scene?

A. Yes.

Q. Wouldn't you agree, sir, that what he said there in terms of the color on the package and in terms of it being ultra texture, as opposed to ribbed, it would be a difference?

A. Yeah.

Q. You didn't put that in your police report?
A. No.
Q. You were also told by Ms. Schaefer that there were $9 had been taken from her?
A. Yeah.
Q. Your aware that Mr. Beaton has indicated that $25 was taken?
A. Yes.
Q. And you're aware, sir, that Ms. Schaefer told the perpetrator that she was, in fact, a nurse or health care technician?
A. Yes, you're right.
Q. And you're aware, sir, that Mr. Beaton indicated on his statement that the victim said that she was a maid?
A. He said cleans things, I think.
Q. There was also some mention that Mr. Beaton said that he was in the car for awhile and someone said freeze, were there any witnesses to support that?
A. Never.
Q. Do you recall Mr. Beaton also indicating to you that the victim was in her bedroom on a bed?
A. Yes.
Q. Now, you know that the bed in question, the

incident was in a main living area?

A. I know now, yes.

Q. Which wouldn't be a bedroom, but it was the main living room; is that right, sir?

A. Yes, sir.

Q. There would have been during the investigation at Mr. Beaton's residence, there were, obviously, some tools in the woodworking area?

A. Yes, sir, there was.

Q. And there would have been a screwdriver that was found in there, are you aware of that?

A. No, I'm not.

Q. Your testimony earlier is that Mr. Beaton hasn't said anything to you, hasn't admitted any involvement until later on he's alone in the room with you and Detective Backhermes?

A. Correct.

Q. And you're saying that you didn't hit him or nobody threatened him or anything like that?

A. Never.

Q. So he just started to talk to you?

A. Yes, he did.

Q. Was Shawn Edwards ever arrested for the incident involving Ms. Schaefer?

EXHIBIT 9

Wayne Beaton, and provide him with a copy of the order and get samples as required?

A. We're talking about the December 14th, correct.

Q. No, just did you ultimately get samples from the defendant?

A. Yes, I did.

Q. What samples did you get from him?

A. We collected blood, hair and saliva.

Q. After collecting the samples from the defendant, what items along with those did you submit to the FBI for comparison?

A. I need to refer to this, there is 20 some items, but I sent items for the victim's blood, hair and saliva. I also sent vaginal swabs from the victim, vaginal smear slides, fingernail scrappings from the left and right hand from the victim, and then from the scene, the bed quilt, the mattress cover, pillowcase, T-shirt, a towel and panties.

Q. You forwarded all these items, as well as the defendant's sample, to the FBI?

A. It was all sent registered mail the last part of December.

Q. Was there any samples located by the FBI on

any of the things sent from the victim's apartment or from her samples that could be compared to the defendant, Wayne Beaton?

A. The FBI found no samples whatsoever to do any comparisons with.

Q. After the photographs that we talked about now that were taken at the scene, did you later go back recently with Detective Fraser and take more scene photographs at the victim's apartment?

A. Yes, I did some out door photographs.

Q. And those would be to supplement the photographs you have already taken?

A. That is correct.

Q. And basically, those photographs, you went with Detective Fraser to take photographs of the golf course and bridge and so forth?

A. That is correct.

MS. MCROBERTS: Thank you.

I have no further questions.

MR. SUSKAUER: Judge, I would ask for a very brief recess before I cross?

THE COURT: Let's go ahead and finish up for the evening, unless there is some emergency.

MR. SUSKAUER: Judge, a quick little

two minute recess.

THE COURT: We'll all sit here and you go ahead and go.

If anybody on the jury needs to step back.

(A short recess was taken.)

MR. SUSKAUER: Thank you, Judge.

CROSS EXAMINATION

BY MR. SUSKAUER:

Q. Now, I asked you a couple of questions earlier, sir, about the condom wrapper that was found at the scene of the rape, do you recall that, sir?

A. Yes, I do.

Q. And would you agree, sir, that the particular -- not the particular brand, but the particular type of condom would be different than the one found at Mr. Beaton's residence?

A. They were different.

Q. And the reason why, sir, you dust for fingerprints and you send off, you know, a rape kit to the FBI, is you want to try to establish more evidence against a particular person to make sure the person is the right person involved in a crime?

A. You want to do everything that you possibly

can with whatever evidence that you have.

Q. Now, that particular condom wrapper, you dusted it for fingerprints; is that right?

A. That is correct.

Q. And the screwdriver that was found at the residence, you did that as well; is that true?

A. That is correct.

Q. You mentioned earlier about the ceramic cat, did you find the bracelet in the ceramic cat or did some other officer?

A. It was pointed out to me by another officer.

Q. So by the time you got there, this had already been discovered; is that true?

A. If I remember correctly, it was discovered while I was there.

Q. But in any event, you wouldn't have been the first officer to have seen it?

A. That is correct.

Q. With all the dusting that you did for fingerprints and all the evidence that was sent up to the FBI, is there anything that you found in terms of what was able to be compared, anything that at all that connected to Mr. Beaton as being the person that did this particular rape that you found?

A. In terms of the evidence that I dealt with?
Q. Yes.
A. No, I did not find anything.
MR. SUSKAUER: That's all I have.
Thank you, sir.
REDIRECT EXAMINATION
BY MS. MCROBERTS:
Q. Mr. McCall, did you find any evidence to connect anyone else to the crime?
A. No.
Q. Did you find any evidence that would disqualify the defendant as the perpetrator in this crime?
A. No.
MS. MCROBERTS: Thank you.
MR. SUSKAUER: Nothing further.
THE COURT: Is that it? Is the witness excused?
MS. MCROBERTS: Yes, Your Honor.
THE COURT: Okay. Mr. McCall, watch your step. You're free to go, sir.
State, is that it until your one for tomorrow?
MS. MCROBERTS: Yes, Judge.
THE COURT: Ladies and gentlemen, we

7-1 (Rev. 2-21-91)

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: Mr. Jack R. McCall
Criminal Investigations
Crime Scene Unit
West Palm Beach Police
Department
600 Banyan Boulevard
West Palm Beach, Florida 33401

Date: May 12, 1995

FBI File No. 95A-HQ-1096293

Lab No. 50103007 S YX ZS

Reference: Communication dated December 28, 1994

Your No. 94-69655

Re: WAYNE BEATON - SUSPECT;
[redacted] - VICTIM;
KIDNAPING/RAPE

Specimens received: January 3, 1995

Specimens:

Q1 Bed quilt (16)

Q2 Mattress cover (17)

Q3 Pillow case (18)

Q4 T-shirt (19)

Q5 Towel (20)

Q6 Panties (21)

Q7 Pubic hair combings from CINDY SCHAEFER (10)

Q8-Q9 Vaginal swabs (11)

(over)

Q9A Vaginal swabs (11)

Q10-Q11 Vaginal smear slides (12)

Q12-Q13 Fingernail scrapings (14, 15)

K1 Liquid blood sample from CINDY SCHAEFER (9)

K2 Saliva sample from CINDY SCHAEFER (13)

K3 Head hair sample from WAYNE BEATON (5-8)

K4 Pubic hair sample from WAYNE BEATON (4)

K5 Liquid blood sample from WAYNE BEATON (1)

K6 Saliva sample from WAYNE BEATON (2)

ALSO SUBMITTED:

Saliva control (3)

Result of examination:

SEROLOGICAL ANALYSIS:

Blood, too limited in amount to characterize further, was identified on specimen Q1. Specimens Q2 through Q6, Q8 through Q11 and K2 were examined for the presence of blood; however, none was found

Specimens Q1 through Q6, Q8 through Q11 and K2 were examined for the presence of semen; however, none was found.

Based upon the results of the serological analyses conducted on the submitted items of evidence, no DNA analysis was conducted on this matter.

HAIRS AND FIBERS ANALYSIS:

No hairs of Negroid origin suitable for comparison purposes were found in or on specimens Q1 through Q7 and Q12 through Q13.

DISPOSITION OF EVIDENCE:

The submitted items will be returned to you under separate cover by registered mail.

PLEASE PRINT OR TYPE FORM

PLEASE SEND ORIGINAL TO THE STATE ATTORNEY'S OFFICE, W. P. B., FLA.

MEDICAL REPORT
SUSPECTED SEXUAL ASSAULT

Case No. Agency

Hospital Palm Beach Med Ctr.

Date 9-14-94

Brought by

Birthdate [redacted]

Name of Patient [redacted]

Address [redacted] Village Blvd WPB Fl 33407

Age 29

Sex F

Race W

Person Authorizing Examination J[illegible] #970

Contacted by

Examining Physician [signature] Signature — Maltese Print Name

Victim's History:

a) Days since onset of last menstrual period 2-3 months ago. (Depro provera.)
b) Has Victim had intercourse within 3 days (72 hours) prior to assault? no
c) Has victim washed or douched in the interim? No.
d) Did patient wash or douche after the assault? No.
e) Did victim know the assailant? no If so, What was the relationship? no

FORENSIC LAB SPECIMENS

		Taken	Initialed
a)	Foreign Hairs	✓	TM
	Place apron sheet under victim	✓	TM
b)	Hair Standards		
	(pubic)	✓	TM
	(head)	—	
c)	Smear Slides	✓	TM
d)	Vaginal Swabs	✓	TM
e)	Vaginal Aspirate (Opt)	—	
f)	Patient's Blood Standard (DNA)	✓	TM
g)	Patient's Saliva Standard	✓	TM
h)	Fingernail Scrapings	✓	TM
i)	Oral Swabs	—	
j)	Anal Swabs	—	

• When applicable

****IMPORTANT****

Have Vaginal Standard Swabs and Instructions been given to patient? N/A

SIGNED RECEIPT FROM INVESTIGATOR

J[illegible] #970

PATIENT'S INJURIES (if any)

Linear abrasion B2 ankles + (L) wrist.

PELVIC EXAMINATION

___ Motile spermatozoa observed

___ Non-Motile spermatozoa observed

X No spermatozoa observed

Related abnormalities ___

EXHIBIT 10

VI. Discussion

A. Claim One

In his first ground, Beaton claims that his convictions were obtained by use of a coerced confession. Specifically, Beaton alleges that although he was read his Miranda rights when initially interrogated about several unrelated crimes, the police from a different law enforcement agency failed to again advise him of his Miranda rights when he was questioned about the crimes of this case. He further alleges that the totality of the circumstances rendered the confession coerced and involuntarily given, warranting suppression.

The record reveals that trial counsel filed a pretrial motion to suppress the confession, and extensive evidentiary hearings were conducted on the motion. The testimony received at the hearing revealed the following.[6] Beaton was arrested by police, charged with prowling and home invasion, and he received his Miranda warnings at 4:45 P.M. (T. 24-5, 39-40, 65). Beaton was then questioned about an unrelated case of burglary by Detective Becksfort, and did not confess to that offense. (T. 27-30).

[6]The transcript of the hearing on the motion to suppress can be found at DE# 16; Ex. 12b.

Apparently, in an attempt to encourage Beaton to confess, Detective Becksfort made the following several statements to Beaton during the questioning. The detective said that he would telephone the Internal Revenue Service regarding Beaton's failure to report his income, and indicated that Beaton could be charged with violating county ordinances for failing to have an occupational license. (T. 102, 106). The detective also told Beaton that Beaton could be charged with a felony for carrying a concealed weapon, although the detective knew that the charge was in fact a misdemeanor. (T. 103). The detective further told Beaton that he could be charged with stealing a telephone from a pawnshop, and that Beaton could be held without bond. (T. 105, 107).

A second detective, Detective Fraser, then questioned Beaton, and Beaton again claimed that he was innocent. (T. 34-7, 54-5). Approximately, thirty to forty minutes after the initial questioning began, Detective Fraser asked Beaton if he would consent to a search of his home. (T. 55-6). Beaton consented to the search with the condition that he be present during the search. Id. Detective Fraser agreed, and Beaton signed a consent form. Id. Beaton's apartment was then searched, and the search produced a gold bracelet. (T. 56-7). The victim in this case had owned a gold bracelet, which was stolen during the burglary, kidnapping and

sexual battery. Id. When Beaton became aware of the discovery of the gold bracelet, he confessed to the crimes in this case at 9:47 A.M., the following morning. (T. 66-7). Beaton made the statements after certain of his constitutional rights had been repeated, and the confession was captured on tape at his apartment. (T. 43-4, 58-60). Beaton had not requested an attorney, and never indicated that he did not want to talk to the police. (T. 43-4, 58-61). On the tape recording, he indicated that he had not been coerced into confessing, and that no threats had been made to get him to confess. (T. 43-4, 58-9).

At the conclusion of the hearing, the court denied the motion to suppress, stating in pertinent part as follows:

> I believe this alien who is not a citizen but this person who was legitimately present understood his rights and spoke to the police, and because he chose to do that and in particular [Detective] Fraser's statement in the taped statement, and I am aware and I am sure the Appellate Court knows there is case after case where the defendant may make a voluntary statement to the police, but when they say to speak in a little microphone, they'll say, "I don't mind talking to you but I don't want it on tape."

(T. 171). The identical claim was presented on direct appeal, and the convictions were per curiam affirmed without written opinion. Beaton v. State, 706 So.2d 312 (Fla. 4 DCA 1998)(table).

It is well settled that a confession must be the product of rational intellect and free will rather than being induced by conduct of state officials which might overbear the defendant's will to resist, thus constituting coercion. Colorado v. Connelly, 479 U.S. 157 (1986); Schneckloth v. Bustamonte, 412 U.S. 218, 225 (1973); Townsand v. Sain, 372 U.S. 293 (1963); Lynumn v. State of Illinois, 372 U.S. 528 (1963); Rogers v. Richmond, 365 U.S. 534 (1961); Brown v. Mississippi, 297 U.S. 278 (1936). In determining whether a defendant's will has been overborne, the Court must consider the totality of all surrounding circumstances, including both the characteristics of the accused and the details of the interrogation. Schneckloth v. Bustamonte, supra at 226.

Further, "the use of tricks or factual misstatements in and of itself does not render a confession involuntary." State v. Manning, 506 So.2d 1094, 1096-97 (Fla. 3 DCA 1987), citing Frazier v. Cupp, 394 U.S. 731 (1969); United States v. Anderson, 929 F.2d 96, 99 (2 Cir. 1991). So long as a confession is voluntarily made, it is admissible, even if it is procured by artifice, falsehood or deception. See Rogers v. Richmond, 365 U.S. 534 (1961). Encouraging a suspect to "tell the truth" does not, as a matter of law, overcome a confessor's will. United States v. Barfield, 507 F.2d 53 (5th Cir.), cert. denied, 421 U.S. 950, (1975). Neither is

a statement that the accused's cooperation will be made known to the court a sufficient inducement so as to render a subsequent incriminating statement involuntary. Id.; United States v. Frazier, 434 F.2d 994 (5 Cir. 1970).

In federal habeas corpus proceedings, the ultimate issue of the voluntariness of a state confession is a legal question requiring independent federal determination. Miller v. Fenton, 474 U.S. 104 (1985); Lindsey v. Smith, 820 F.2d 1137 (11 Cir. 1987). However, findings of fact subsidiary to the issue of voluntariness are presumed to be correct if the petitioner received a full and fair hearing, and the findings are not patently erroneous or otherwise deficient. Miller, supra. An issue does not lose its factual character merely because its resolution is dispositive of the ultimate constitutional question. Miller v. Fenton, 474 U.S. 104, 113 (1985).

In this case, the state court's implicit and explicit factual conclusions that Beaton's statements to the detectives were voluntary and free from coercion are presumptively correct.[7] The

[7]Federal courts in habeas corpus proceedings are required to grant a presumption of correctness to state court's explicit and implicit findings of fact, if supported by the record. Green v. Johnson, 160 F.3d 1029, 1045 (5 Cir. 1998), cert. denied, 525 U.S. 1174 (1999). Thus, even where the state courts make no express findings, federal courts reviewing petitions for habeas corpus are entitled to "reconstruct the findings of the state trier of fact, either because

trial court during the suppression proceeding apparently found the testimony of Detectives Fraser and Becksfort credible and truthful while rejecting the claims of Beaton.[8] The appellate court accepted the trial court's findings of fact and denied relief on direct appeal.[9] While certain statements made by the detectives during the

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his view of the facts is plain from his opinion or because of other indicia." Fike v. James, 833 F.2d 1503, 1505-06 (11 Cir. 1987), quoting, Townsend v. Sain, 372 U.S. 293, 314 (1963), overruled in part on other grounds, Kenney v. Tamayo-Reyes, 504 U.S. 1 (1992). Accordingly, if it is clear that the trial court would have granted the relief sought by the petitioner had it believed the testimony of certain witnesses, "its failure to grant relief was tantamount to an express finding against the credibility of [those witnesses]." Marshall v. Lonberger, 459 U.S. 422, 433 (1983), citing, LaVallee v. Delle Rose, 410 U.S. 690 (1973).

[8]The officers testified that Beaton was taken into an interview room and read his Miranda rights. (T. 25-6). Beaton spoke English, he understood his rights, and he was lucid and coherent. (T. 27-8). Beaton was cooperative, he was not threatened, and he was not promised anything in exchange for a confession. (T. 29-30, 116, 118-21). Later when questioned at his home, Beaton stated that he still understood his rights and at no time did he invoke his right to remain silent or request an attorney. (T. 43-4). Beaton gave a taped statement and was very cooperative at that time. (T. 59)

[9]Beaton was tried and convicted in five earlier criminal cases all before the same state court judge. (T. 148). In all criminal cases, including this case, Beaton confessed to the crimes during the same interrogation and Beaton challenged his confessions in all cases. (T. 148). The motions to suppress were denied, and the denials were affirmed on direct appeal. For example, in Beaton v. State, 709 So.2d 172 (Fla. 4 DCA 1998), the appellate court stated:

> We reject Beaton's argument, however, that the trial court should have suppressed his confession based on the failure of the officers in question to have reread his Miranda rights before questioning him about the burglary of the victim below. [FN1] Although he waived his rights after he was initially stopped, albeit for a different crime than that with which he was charged below, he contends the officers were required to readvise him of his rights once their line of questioning changed. We disagree, since Miranda does not require that, "after effective waiver, each individual questioning the defendant during a single continuing session of interrogation must, prior to asking any questions, readvise the defendant of his Miranda rights." Enriquez v. State, 449 So.2d 845, 848 (Fla. 3d DCA 1984); see also Nixon v. State, 572 So.2d 1336 (Fla.1990).
>
> FN1. Beaton has raised this argument numerous times in

interrogation may have been inappropriate, there is nothing in the record to indicate that Beaton was coerced into waiving his rights. Colorado v. Connelly, supra. Moreover, there was no evidence that Beaton had requested counsel or wanted to stop the interview, and was denied such rights. In the absence of an unequivocal invocation of the right to remain silent, no constitutional violation occurred. United States v. Hale, 422 U.S. 171 (1985); Rhode Island v. Innis, 446 U.S. 291 (1980); United States v. GlenArchila, 677 F.2d 809 (11 Cir. 1982).

Review of the record yields no suggestion that the state court's implicit and express findings are not supported by the record or was otherwise deficient. It is apparent from review of the record that Beaton's confession was freely and voluntarily entered and not in violation of his protections pursuant to Miranda. Accordingly, the state court's determination that Beaton

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> his six appeals before this court. We have already rejected this argument twice in case numbers DN 97-0726 and DN 97-0725 [the direct appeal in this case].

Id. at 174. Later in Beaton v. State, 764 So.2d 1 (Fla. 4 DCA 1998), in its affirmance of the trial court's denial of Beaton's motion to suppress, the appellate court stated:

> Wayne Beaton appeals his conviction and sentence for burglary of an occupied dwelling and grand theft. He first claims his confession should have been suppressed since he was not reread his Miranda rights after the subject of interrogation changed several times. Based on our review of the record, we do not find this argument persuasive, and, therefore, affirm on this point. See Nixon v. State, 572 So.2d 1336 (Fla. 1990); Enriquez v. State, 449 So.2d 845 (Fla. 3 DCA 1984).

was not entitled to relief is not in conflict with clearly established federal law or based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding. Relief must therefore be denied pursuant to 28 U.S.C. § 2254(d).

B. Claim Two

Beaton alleges in claim two that the trial court erred when it admitted evidence of collateral crimes at trial and denied his motion for mistrial, resulting in a fundamentally unfair trial. Specifically, evidence was admitted at trial indicating that before Beaton became a suspect in this case, he was under surveillance by the West Palm Beach Sheriff's Department. (T. 336-39, 339-40, 342-49, 404, 421). He did not become a suspect in this case until the search of his home produced an item of jewelry that had been taken from the victim. (T. 516, 532-36, 558). Also, there was evidence that he was initially arrested by that police department and, at the time of his arrest, Beaton was carrying a knife and a screwdriver. (T. 355-58). Beaton also complains about evidence admitted regarding his rental expense, and that he was seen carrying a gun the morning of his arrest. (T. 530).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 01-8901-Civ-HURLEY
MAGISTRATE JUDGE SORRENTINO

WAYNE M. BEATON,

Petitioner,

v.

MICHAEL W. MOORE,

Respondent.

CLOSED CASE

FINAL JUDGMENT
HABEAS CORPUS

For the reasons stated in the report of the Magistrate Judge, and upon independent review of the file, it is

ORDERED AND ADJUDGED as follows:

1. This petition for writ of habeas corpus is denied.

2. All pending motions not otherwise ruled upon are dismissed, as moot.

3. This case is closed.

DONE AND ORDERED at West Palm Beach, Florida, this 29th day of May, 2002.

Daniel T. K. Hurley
UNITED STATES DISTRICT JUDGE

cc: Wayne M. Beaton, Pro Se
Claudine LaFrance, AAG

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 01-8901-CIV-HURLEY/SORRENTINO

WAYNE M. BEATON,

Petitioner,

v.

MICHAEL W. MOORE,
Secretary for the Department of Corrections,

Respondent.

ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY

THIS CAUSE comes before the court upon petitioner Wayne M. Beaton's motion for certificate of appealability. On May 29, 2002, this court, adopting a report and recommendation from the magistrate judge, denied the petition for writ of habeas corpus. On July 29, 2002, this court granted petitioner's motion for reconsideration, and reaffirmed the denial of the petition.

In his motion, Mr. Beaton sets forth the following claims: (1) his convictions were obtained by the use of a coerced confession; and (2) he received ineffective assistance of counsel when his lawyer failed to object to the trial court's erroneous departure beyond the sentencing guidelines. Petitioner has failed to make a substantial showing of the denial of a constitutional right for the same reasons as stated in the magistrate's report. See 28 U.S.C. § 2253(c)(2)(1999).

It is hereby **ORDERED** and **ADJUDGED** that petitioner's motion for certificate of appealability [DE # 31] is **DENIED**. Since he cannot appeal without a certificate of appealability, the motion to proceed *in forma pauperis* on appeal [DE # 30] is **DENIED** as moot.

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DONE and **SIGNED** in Chambers at West Palm Beach, Florida this 30th day of October, 2002.

Daniel T. K. Hurley
United States District Judge

Copies provided to:
Wayne M. Beaton, *pro se*
Claudine M. LaFrance, AAG

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 02-14686-H

WAYNE M. BEATON,

Petitioner-Appellant,

versus

SECRETARY FOR THE DEPARTMENT OF CORRECTIONS,
by serving Michael Moore,

Respondent-Appellee.

Appeal from the United States District Court for the
Southern District of Florida

ORDER:

Appellant's motion for a certificate of appealability is DENIED because appellant has failed to make a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2).

In his habeas corpus petition, filed pursuant to 28 U.S.C. § 2254, appellant first claimed that the police obtained his confession illegally and against his will and, furthermore, failed to inform him of his rights under Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). Although appellant's confession came some five hours after his first and only formal Miranda warning, he voluntarily waived his Miranda rights during that warning, and the police, on at least two separate occasions, later reminded him informally of those rights, which he acknowledged but failed to invoke. The trial court ruled that Appellant's original Miranda waiver was sufficient to legitimize his confession, relying upon Nixon v. State, 572 So.2d 1336, 1344 (Fla. 1990) (holding admissible,

even without another full Miranda warning, appellant's statement to a police officer made almost eight hours after he received the last of four formal warnings and was reminded contemporaneously again, although informally, of his Miranda rights). The state appellate court affirmed this ruling. See Beaton v. State, 709 So.2d 172, 174 (Fla. Dist. Ct. App. 1998). This ruling was neither contrary to nor an unreasonable application of federal law, and, therefore, appellant's claim fails. Appellant also claimed that his consent to search his home was coerced and involuntary, but this claim fails for the same reason.

Appellant next claimed that the trial court erroneously admitted certain evidence. "The standard of review for state evidentiary rulings in federal habeas corpus proceedings is a narrow one. Only when evidentiary errors so infused the trial with unfairness as to deny due process of law is habeas relief warranted." Felker v. Turpin, 83 F.3d 1303, 1311 (11th Cir. 1996). Here, the facts admitted, although revealing that appellant was a suspect in other burglaries, were necessary to describe the context of appellant's arrest, to place him in the vicinity of the victim's apartment at about the same time as the burglary in question, just two nights earlier, and to show that he had the tools necessary to break and enter into a dwelling. These facts comprised "similar fact evidence," admissible under Florida's equivalent of Fed.R.Evid. 404(b), to show opportunity, intent, identity, and the like. See Fla. Stat. § 90.404(2)(a). The admission of this evidence did not render the trial fundamentally unfair.

Appellant next alleged that the prosecutor changed the transcript of his confession to indicate that he had taken a gold band from the victim's home, when he had mentioned only a gold pen. Appellant also claimed that trial counsel was ineffective for failing to object to the admission of this altered statement. Although the transcript of appellant's confession indeed had been altered,

appellant's answer to the next question recorded in the transcript made clear that he was referring to the gold bracelet stolen from the victim. Appellant suffered no prejudice from the alleged prosecutorial misconduct or from his trial counsel's alleged ineffectiveness. See Darden v. Wainwright, 477 U.S. 168, 181, 106 S.Ct. 2464, 91 L.Ed.2d 144 (1986).

Appellant claimed that trial counsel failed to argue in favor of his motion for judgment of acquittal. However, the evidence against appellant was more than sufficient to support his conviction. Appellant suffered no prejudice from trial counsel's alleged ineffectiveness. See Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560 (1979). Appellant also claimed that the trial court erred by applying an upward departure to his sentence. This claim is not cognizable on habeas corpus review. See Branan v. Booth, 861 F.2d 1507, 1508 (11th Cir. 1988). Furthermore, the aggravating factors that the trial court applied are valid ones under Florida law. See Nixon, 572 So.2d at 1345. Finally, appellant claimed that trial counsel was ineffective for failing to investigate and produce certain exculpatory evidence. This claim is wholly conclusory and deserves no consideration from this Court. Accordingly, appellant's motion for a certificate of appealability is DENIED.

Appellant's motion for leave to proceed on appeal in forma pauperis is DENIED as moot.

/s/ Frank M. Hull
UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 02-14686-H

WAYNE M. BEATON,

Petitioner-Appellant,

versus

SECRETARY FOR THE DEPARTMENT OF CORRECTIONS,
by serving James Crosby,

Respondent-Appellee.

Appeal from the United States District Court for the
Southern District of Florida

Before **BARKETT and HULL, Circuit Judges.**

BY THE COURT:

Upon reconsideration of this Court's order dated January 9, 2003, appellant's motion for a certificate of appealability is DENIED because appellant has failed to make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2).

Appellant's motion for leave to proceed on appeal in forma pauperis is DENIED as moot.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-10148-E

IN RE: WAYNE BEATON,

Petitioner.

Application for Leave to File a Second or Successive
Habeas Corpus Petition, 28 U.S.C. § 2244(b)

Before: JORDAN, JILL PRYOR and LUCK, Circuit Judges.

BY THE PANEL:

Wayne Beaton has filed an application seeking an order authorizing the district court to consider a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2244(b)(3)(A). Such authorization may be granted only if:

> (A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or
>
> (B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and
>
> (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

28 U.S.C. § 2244(b)(2). "The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the

application satisfies the requirements of this subsection." *Id.* § 2244(b)(3)(C); *see Jordan v. Sec'y, Dep't of Corr.*, 485 F.3d 1351, 1357-58 (11th Cir. 2007) (explaining that this Court's determination that an applicant has made a *prima facie* showing that the statutory criteria have been met is simply a threshold determination).

Beaton is a Florida prisoner serving a life sentence for burglary with an assault or battery with a firearm, robbery with a firearm, sexual battery with a firearm, and kidnapping with a firearm.

In his application, Beaton states that he wishes to raise two claims in a successive § 2254 petition. First, Beaton alleges that medical and Federal Bureau of Investigation ("FBI") forensic record evidence was excluded from his trial and that he is actually innocent of his sexual battery conviction. He contends that the exclusion of this evidence resulted in a constitutional error and a fundamental miscarriage of justice. Beaton explains that both the prosecutor and his attorney failed to admit into evidence a physician's report of a rape kit and FBI forensic laboratory test results. He asserts that these documents show that there were no signs of any sexual battery or trauma to the victim's vagina or cervix. Beaton alleges that the reports also showed no sign of an exchange of pubic hair between himself and the victim. He contends that the prosecutor failed to call the physician to testify at his trial and that an incriminating statement of his that was admitted into evidence was "psychologically coerced" through the use of religious scare tactics. Beaton further alleges that he was not given *Miranda*[1] warnings before making the statement. Beaton also contends that other evidence admitted at trial did not connect him to the sexual battery crime. Thus, he asserts, if the medical and FBI forensic reports had been admitted into evidence, no

1 *Miranda v. Arizona*, 384 U.S. 436 (1966).

reasonable jury would have convicted him. Beaton concedes that this claim relies neither on a new rule of constitutional law nor newly discovered evidence.

Second, Beaton alleges that the police officers' failure to properly mirandize him violated his constitutional rights. He contends that an officer is not required to re-read a defendant his *Miranda* rights if there is a single continuing session of questioning conducted by multiple officers. However, Beaton asserts, he was in custody for a different case than the case underlying this application, and he was not mirandized in regard to the relevant case. He contends that because there was not a single continuing session of questioning about the relevant case, he was required to be mirandized again before he was questioned about it, and the officers' failure to do so violated his rights. Beaton alleges that the state court's 1998 decision in his direct appeal that the officers had not violated his constitutional rights therefore involved an unreasonable application of federal law. Notably, Beaton asserts that the district court's decision in his initial § 2254 petition as to this issue was based on the state court's erroneous decision. He likewise concedes that this claim relies neither on a new rule of constitutional law nor newly discovered evidence.

Beaton attached to his application an appendix that includes, as relevant, a copy of a medical report for a suspected sexual assault dated September 1994 and FBI records dated December 1994.

As Beaton concedes, his proposed claims rely neither on a new rule of constitutional law nor newly discovered evidence. As to his first proposed claim, although Beaton appears to allege that he received copies of the examining physician's report and the FBI forensic report relatively recently, his claim that the prosecutor and his attorney failed to admit the documents into evidence implies that the evidence was available previously and, specifically, was available at the time of

Beaton's trial. *See id.* § 2244(b)(2)(B)(i) (providing that the factual predicate of the claim must not have been discoverable previously through due diligence). The attached copies of the evidence confirm that they existed in 1994. And Beaton's contention that his trial counsel failed to present the evidence at trial supports this conclusion. Thus, even if Beaton is correct that the documents would show his actual, factual innocence, his claim fails under the newly discovered evidence standard because he has not shown that the evidence was not available to him at the time of his trial. *See id.* § 2244(b)(2)(B) (stating that an applicant must satisfy both prongs of subsection (B) to be entitled to relief). Nor has he shown, or even alleged, "both clear and convincing evidence of his actual innocence and another constitutional violation." *See In re Bolin*, 811 F.3d 403, 409 (11th Cir. 2016). And Beaton has not alleged that his first claim relies on any rule of constitutional law, let alone a new rule made retroactive to cases on collateral review. *See id.* § 2244(b)(2)(A).

As to Beaton's second proposed claim, to the extent that he raised this claim in his initial § 2254 petition, he is barred from presenting it again under § 2244(b)(1). *See In re Everett*, 797 F.3d 1282, 1291 (11th Cir. 2015). Moreover, Beaton does not appear to allege that his claim relies on any Supreme Court precedent other than *Miranda*, but *Miranda* was decided well before Beaton's arrest, trial, and conviction. *See* 28 U.S.C. § 2244(b)(2)(A) (providing that the new rule of constitutional law must have been previously unavailable). Beaton's second claim challenges only the admission of his confession, which was admitted at his trial, and thus does not rely on any newly discovered evidence.

Accordingly, because Beaton has failed to make a *prima facie* showing of the existence of either of the grounds set forth in § 2244(b)(2), his application for leave to file a second or successive petition is DENIED. His motion for appointment of counsel is DENIED as moot.

EXHIBIT 11

Q. By whom, do you know?
A. I am not sure which officer it was.
Q. Did it come to your attention that, though, he was in custody by someone from the Palm Beach County Sheriff's Office?
A. Yes.
Q. Was he, in fact taken back to the Palm Beach County Sheriff's Office Headquarters?
A. Yes, he was.
Q. And what was the purpose for that?
A. He had been placed under arrest. He was taken back to the Detective Bureau, Crime-Person Bureau, placed into a holding cell.
Q. What was your responsibility at that point?
A. At that point somebody said he will need to be questioned. So I took it on myself, took him into an interview room and took a statement from him.
Q. When you went into the interview room, did you use a tape recorder to tape record your conversation?
A. Yes, I did.
Q. Once you got into the interview room was the defendant read his Miranda rights?
A. Yes.

Q. What were they read to him from?

A. From a standard rights card that we were issued at the Sheriff's Department.

Q. Let me show you what has been marked State's Exhibit 1 for identification, ask if you recognize that?

A. That's the rights that I read him.

Q. How do you know that's the rights card that you read to him?

A. From my writing and the date and everything.

Q. Is it in substantially the same condition today as it was when you read the defendant his rights, September 22, 1994?

A. Yes.

MS. SKILES: At this time ask to have State's Exhibit Number 1 admitted into evidence.

MR. SOSA: No objection. There is no issue to Detective Becksfort reading his rights and signing the cards.

THE COURT: Ms. Skiles, is it signed by the defendant?

STATE: Yes, Judge. I will get into that with this detective.

(Whereupon, State's Exhibit Number 1 for Identification was received into Evidence.)

BY MS. SKILES:

Q. Detective Becksfort, in going through and reading each of those rights, after reading each one, did the defendant indicate if in fact he understood those rights?

A. Yes, did he.

Q. How did he indicate whether or not he understood those?

A. Well, he would say yes and I would check them off on the card.

Q. After you went through each item and he indicated that he understood, did you have the defendant sign the rights cards?

A. Yes, I did.

MS. SKILES: Your Honor, if I may approach.

BY MS. SKILES:

Q. Now Detective, when you were reading the defendant his rights, all this is on the tape?

A. Yes it is.

Q. Did the defendant state to you that he understood the English language?

A. Yes, he did.
Q. In fact, did he tell you that is the only language that he readily speaks?
A. Without listening to the tape, that I cannot say for sure.
Q. Any event when you were reading him his rights, did you have an opportunity to observe his physical appearance?
A. Yes.
Q. Did he appear injured in any way?
A. No.
Q. Did he complain of injury?
A. No.
Q. Did he appear lucid and coherent?
A. Yes.
Q. Did he in fact respond appropriately to your questions?
A. Yes.
Q. When you were talking to him, did he indicate he was willing to give you a statement?
A. Yes, he did.
Q. And did you tell him what it was you wanted to talk to him about?
A. I questioned him concerning some property which had been pawned. I advised him after he had

been Mirandized, I told him that if during the statement I asked some questions about any areas that he did not wish to discuss to just acknowledge it to me and I would not go any further into those particular areas.

Q. In fact, you told him that you wanted to talk to him about what had happened that evening as well as the other cases?

A. Correct.

Q. You told him specifically if he didn't wish to speak to you about another case, he didn't have to?

A. Yes, I told him if I approached any area which he didn't wish to discuss, just to let me know and we would drop that area.

Q. Did you in fact ever tell him he would become charged with other crimes, including dealing in stolen property?

A. Again, without looking at the statement, I would have trouble saying yes or no to that.

Q. Did you or anyone else in your presence threaten the defendant to get him to talk to you?

A. No.

Q. Did you or anyone else make any promises to get him to talk to you?

Q. Does that help you?

A. Yes.

Q. Says right there in that paragraph, it says that when you removed Mr. Beaton from the holding cell and took him into an interview room where I conducted the sworn audio questioning Beaton concerning other cases.

What were the other cases you questioned him on, do you recall?

A. Was currently working a stalking case in which he was suspected. That was actually my involvement in the case. When it all started, whether I asked him about this specific stalking case on the tape again at this time, I cannot say without listening to the tape itself.

Q. Okay, now, the same page, towards the bottom approximately three lines down.

A. Yes, sir.

Q. Says here that in your questioning you questioned him about his, the burglary case, Beaton emphatically denied committing any burglary. Do you remember that part of the interview?

A. I don't have an independent recollection of it.

to be the violation.

BY MR. SOSA:

Q. My page eight or seven, or the middle of that page, actually about a third of the way down says, I concluded my statement. Do you see that portion?

A. Yes.

Q. It says here you concluded your statement. Then after that was when Detective Fraser, according to the report, questioned Mr. Beaton about the rape case?

A. Yes, sir.

Q. At that point, after Detective Fraser questioned Mr. Beaton, did you -- were you in any way privy to what he told Detective Fraser or what he may have talked about during the course of that conversation?

A. If I was, I don't recall any recollection.

Q. Did you return with Detective Fraser and the defendant to his home?

A. I went to his home. I don't know who transported Mr. Beaton up there. I went to the residence but I don't recollect off the top of my head how he got there or at what point I went to the house.

Detective Backherns, along with Detective Fraser, Beaton did confess to committing several burglaries in the West Palm area and also confessed to having committed the rape of a white female in West Palm Beach.

Did you come across that information right then, there at the house?

A. I was advised at the house, yes.

Q. Do you know if anyone read Mr. Beaton his rights, at all in the house?

A. No, sir, I don't know.

Q. Other than the rights you read him at the station shortly after the arrest, are you aware if Mr. Beaton was informed of his rights, at all regarding any of the cases that he was being either investigated for or he was a suspect in?

A. No, sir, not to my knowledge.

Q. Are you aware if at any time Mr. Beaton requested an attorney?

A. Not in my present he didn't.

MR. SOSA: I have nothing further of this witness, Your Honor.

REDIRECT EXAMINATION

BY MS. SKILES:

Q. One question, Detective. What was the time

that the defendant was read his rights and signed the Miranda card?

A. 4:45 a.m.

MS. SKILES: Thank you. I have nothing else, Judge, with this witness.

RECROSS EXAMINATION

BY MR. SOSA:

Q. Was that the time that he was read his rights at the station?

A. Yes.

Q. I am sorry, I missed that. Okay. Thank you.

THE COURT: That it, Ms. Skiles?

MS. SKILES: Yes, with this witness.

THE COURT: Watch it Detective. Is he free to go, can he return to his duty station?

MS. SKILES: Actually, we ask he remain outside so we can coordinate outside.

THE COURT: Next witness?

MS. McROBERTS: Detective Backherns.

THEREUPON:

CHARLES BACKHERNS,

after being called as a witness by the State and

A. Yes, sir.
Q. Now, your statement, you read him his rights at what particular time?
A. I believe it was 4:45 indicated on the card.
Q. And that's when you had him sign the card at that particular time; is that right?
A. That is correct.
Q. And your statement concluded -- your conversation concluded at what time?
A. I believe, it was 6:08.
Q. Now, isn't it true, sir, that when you were instructing Mr. Beaton on his rights you indicated -- and if I can pull you into page 3 of your transcript, I can make no promise or threat to induce you to make a statement?
A. Right.
Q. So you didn't indicate that any other officer could make such a promise or threat; correct?
A. That is correct.
Q. Did you indicate to Mr. Beaton at that particular time that anyone else was going to be interviewing him, at that particular time when you read him his rights?
A. Not at that time, no, I did not.

EXHIBIT 12

face, poke him a few times.

Detective Backherns indicated to Detective Fraser that the defendant made some incriminating or some type of admission regarding the sexual battery case.

Detective Backherns then indicated, Fraser, excuse me, West Palm Beach, then indicated he wanted to speak to the defendant. The defendant at that time allegedly confessed. That statement is, in its entirety available on the tape. In essence, the defendant admits to committing a burglary and the sexual battery.

The first point to be made that the defendant's rights have not been read. Indeed the first time, only time they were read is at the station when they arrested him for the prowling and burglary, and prowling and carrying a concealed weapon, even though he was not questioned by any -- that he was questioned about unrelated matters.

The next time he was questioned was at his house. He signed the consent

voluntarily, said they could come by. The burglary -- he was not re-read this time, questioned by Detective Fraser, not with PBSO but another municipality department investigating a case for which the defendant was not arrested, doesn't read him his rights.

I indicated in the deposition that he had heard, he had been advised, the defendant had already been Mirandized, so therefore he did not Mirandize.

As I said, I think that's clear. It's not on tape. I think he indicated, hopefully will continue, didn't give the defendant his Miranda warnings with regards to the investigation of that case.

THE COURT: Mr. Sosa, permit this interruption please. The first and only Miranda reading occurred at the police station, is that what you are telling me?

MR. SOSA: Yes.

THE COURT: And it is the custom in most police communities to have the defendant sign the card. Was the card signed?

neighborhood, unincorporated area in the western part of West Palm Beach where numerous burglaries, I think it's called Alpha Zone 5, they took him back to that area, he allegedly pointed out numerous houses that he had burglarized, indicated that he had done so many he couldn't remember. But he remembered one particular case, he pointed that one out, that first case we are trying.

The defendant will indicate that didn't happen. He will indicate once he made the statement he was taken to the Palm Beach County Sheriff's Office. He will testify that he did stop. They went back to the wooded area where he recovered that shirt where he indicated that he had thrown the shirt. From there they went to the station. He will deny that he went and pointed anywhere, to any of those.

But that aside, Your Honor, the argument is based on the fact when Detective Fraser elicited the incriminating statement from my client, he did not read him his Miranda rights. That's clear from

observed that law was clear that even though the offense for which the defendant was restrained was different from that for which he was being interrogated, the defendant still needed to be told of his Miranda rights before questioning again.

Citing Turner, it says here, unlike the defendant in Turner, Riviera was advised of his Miranda rights before he was interrogated. If the defendant is going to be questioned on an unrelated case, as he was in this case, by a different police department, to -- very least was, Fraser was under an obligation to read the defendant his Miranda rights, inform him that anything he would say with regards to that interrogation could be used against him; or any other questions regarding any other crimes heard.

He clearly is, as I said, the record will reflect that, Detective Fraser questioned him on tape. He didn't read him Miranda rights because he relied on, at least one, possibly two officers removed who read the defendant his rights some

three to four hours earlier on the case totally unrelated to his investigation and to his department.

Your Honor, I think the case is clear, I think the motion should be granted, as a matter of law.

THE COURT: Very good. Appreciate that presentation. Does the State wish to say anything or should we just get underway with the testimony?

MS. McROBERTS: Get underway with the testimony.

MR. SOSA: May I add one thing. I have your case. Just exactly -- this -- may I, the cases that were given to me by the State, Cole versus Springs (phonetic) appears to be a Supreme Court case, that's right, and it's 479 U.S. 564. And the other case is Nixon versus State, which is found at 572 So.2d 1336. I have no, in my brief reading of the case, argument against it. I think it's agreed, but I think it doesn't speak to my issue.

Nixon versus State says there is no requirement that an accused be

continuously reminded of his rights when he has intelligently waived it. I agree with that. That's not our issue. Another case, it's similar, I don't want to argue the State's position. I glanced at the case, I don't think they speak to my issue.

I don't think there is any case that is against my argument. In fact, this morning in Shepardizing Turner and other cases, they seem to be good law. So I stand on those cases.

THE COURT: Call your first witness, please.

MS. SKILES: Deputy Becksfort.

THEREUPON:

TOM BECKSFORT,

after being called as a witness by The State and after being first duly sworn by the Clerk of the Court was examined and testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MS. SKILES:

Q. Sir, would you state your full name and spell your last name.

A. Tom Becksfort, B-E-C-K-S-F-O-R-T.

other cases.

THE COURT: All right, anything else, Mr. Sosa?

MR. SOSA: Yes, Your Honor, quickly, in response. I think when you look at things, I think what we are missing, what the State will be missing, time sequence. It was a break in communications in custodial interrogation. Here, to the point, it's significant. Not just, we will stand for a little while, we will come back to the defendant.

If we forget for one moment, Your Honor, and we put to the side Detective Becksfort's proper reading of the defendant's Miranda warnings when he was arrested and taken into custody shortly after the prowling and loitering, if we put that stuff off to the side and look at Detective Fraser's conduct in questioning, eliciting the statement from the defendant, I don't think we would have a question that would be suppressed because the purpose of Miranda is to protect, among other things, the defendant's individual rights against

self-incrimination.

If we put away what PBSO did, look at Fraser, it's clear, no reason why we should not do that. The questioning began hours before on unrelated cases, on charges that the defendant denied, vehemently denied. Detective Fraser questioned this defendant twice on, on his case that didn't have nothing to do with PBSO, their jurisdiction, neither time did he give him his rights.

He said somebody had done that, he is not responsible. Detective Fraser had to give the defendant Miranda if he is going to interview on unrelated cases. However, he was Mirandized, he was not even present when Mirandized.

He was under an obligation under Ming (phonetic) and protegee, under the Fifth Amendment and so forth to have read the rights of this defendant or very least to inquire to Becksfort whether or not the defendant still understood his rights. Once he didn't do that, I don't think he can come in now, sort of boot trap say,

somebody else did it even though he is not present, doesn't do any further inquiry, that's it.

I think the simplest way is to remove PBSO say, what Fraser did is a clear violation of the defendant's rights, clear violation of Miranda warnings.

I think it should be Suppressed, not only the statement, his riding around after his alleged confessions, his rights, fruits of that confession, all that should be suppressed. I think the case law, Young, the cases are pretty clear.

THE COURT: Okay. Mr. Sosa that is more than a workman like presentation and attack on the Miranda warnings. Unfortunately. I am inclined to believe and do rule that Nixon is controlling. And Nixon is what, upon the case personally I rely on and the motion is denied.

So we are ready and right for jury selection at 1:30 and we will be recess until 1:30.

(Whereupon, the hearing terminated.)

I. I can make my best argument from what I see in the file. The written motion, with all due respect to Mr. Beaton, that was incorporated, and Mr. Beaton has a limited educational background. He does not have a law degree and I don't think his understanding of the case law is as good as I have.

I have obtained a higher level of education than he has. I don't want to spend too much time on that. Based upon what I saw from Mr. Beaton's written motion and what I have put forth before the Court, I have taken a great amount of time going over Detective Becksfort's statement and my questioning of the detective earlier this morning.

I feel it is very, very important, Judge, because of the case law I will get to in a few minutes. The totality of the circumstances is directly important in analyzing the situation.

It is my argument and it is entirely appropriate Mr. Beaton should have had his Miranda rights reread to him when a

statement was taken by a different police officer, by a different agency on an unrelated crime.

It is important. I recognize the state of the law the State proceeded on and on a cold look at the facts, he doesn't have to be Mirandized. There are facts here, if you were to isolate each one of these facts.

For instance, reading the statement by the police officer, I can understand it is not enough to make the statement involuntary. Here we have an accumulation of facts.

I would like to go through with Your Honor what went on earlier. First of all, as requested, my client's mother says he has limited knowledge. Detective Becksfort indicated his rights were read at 4:44 a.m. and Detective Fraser took another statement from him at 9:47 in the morning, roughly five hours later.

Then I asked Becksfort about what education he had. As my motion suggests, Judge, and verified by Detective Becksfort's testimony, I don't think anything was really

prove it was a falsehood stated to my client and I would submit it is wrong.

I understand the State's case law that says the police can say wrong things and the statement can come in but it's the totality of the circumstances.

Whether it's shoplifting or the intent to prosecute Mr. Beaton on dealing in stolen property with nothing to support it. It's an unsubstantiated and invalid threat.

The fact about him working at his house, the fact about the county ordinance suggestion, these are unsubstantiated and threats not going to be carried out under any circumstances to get information about certain burglaries that Mr. Beaton denied.

The situation about, "You cannot get out on bond." Certainly, Judge, you should not let a person out on bond but we know and Detective Becksfort knows defendants can occasionally get out on bond.

A lot of stuff is piling up on Wayne. "I was hoping you would cooperate." All these things in juxtaposition to the implied threat to the statement of fact, to

the fact Miranda was read much earlier lends itself to why Mr. Beaton was not reread his Miranda rights.

I am not suggesting there were other statements. This is adding finality to that statement from Becksfort and Mr. Beaton. Fraser's pertinent part that I read to you.

Mr. Beaton said, "How much time would I spend in jail?" I advised him a long time. If he was honest and told the truth, the judge might look favorably as far as that period of time was concerned.

That is nothing but another subterfuge to try to get Mr. Beaton to commit to a statement. Taking in the totality of the circumstances certainly at a minimum Mr. Beaton should have been read his rights.

He knew he had a right to remain silent at that particular time, right at the time when he was about to give the statement to Detective Fraser. I asked Detective Fraser about the surrounding circumstances that Mr. Beaton found himself in.

We're talking about five officers, guns visible in a situation in a house. There is evidence of that. "You're under arrest, Mr. Beaton."

THE COURT: They are in Mr. Beaton's house?

MR. SUSKAUER: Right. Clearly, I asked Detective Fraser, why didn't you read him his rights? "Sure, I could have read him his rights."

I asked him, I said, "Why didn't you", and he said he didn't have to and I said because you didn't want him to invoke his right to remain silent and he admitted, yes.

He should have had the opportunity to be revised of his rights at that particular point in time. Miranda really speaks to that.

Now I will get into the case law a little bit and substantiate what I am talking about. You mentioned about the Florida Constitution and the United States Constitution. I would submit they are binding on this court as well as the court

should take into account the Florida Supreme Court and the United States Supreme Court.

They all have something to say and I would like to go over them with you, Judge. I cited Rivera versus State, 547 Southern Second 140, a 4th DCA case in 1989. The copy I have given to you and the State.

The pertinent part is on page 144. They talk about in the first column, they mention Miranda. It says in italics, "Prior to any questioning, the person must be warned he has the right to remain silent and any statement," et cetera.

It goes on in the next column what happened and it says, "When a confession is induced by direct or implied promise of a benefit, the confession cannot stand."

I think it is important because I would suggest to the court as proven by the evidence that has been brought out earlier this morning, that there was an implied promise of a benefit especially in light of what Backherns said to Mr. Beaton and in light of hours of questioning which ended up

bearing no fruit for the sheriff's office from Detective Becksfort earlier.

On page 145, the second column, "Even though the defendant was restrained, it was different from that which he was being interrogated, the defendant needs to be told the Miranda rights prior to questioning."

Unlike Rivera, he was advised of his Miranda rights before he was interrogated and in addition he was again given his Miranda rights during the polygraph test and again waived those rights.

If I turn that around, Judge, it leads to an understanding or what controls here is that Fraser should have read him his Miranda rights hours later in light of the totality of the circumstances as I have suggested already.

Thomas v. State, the second case I have cited, a Supreme Court of Florida case, 456 Southern Second 454.

Self-incriminating statements will be excluded if they are obtained by

techniques calculated to exert improper influence to trick or to delude suspect as to his true position.

Here there was no evidence of threat or improper influence. In our case, the case before the court, I think there were some implied threats or implied promises especially with the misstatements that went on earlier from Detective Becksfort.

Brewer v. State, Supreme Court of Florida case, 386 Southern Second 232. Page 235, the second column, under that standard when a question arises as to the voluntariness of a confession, the inquiry is whether the confession was free and voluntary; that is, it must not be extracted by any sort of threats or violence nor obtained by any direct or implied promises, however slight, nor by the exertion of any improper influence.

For a confession to be admissible as voluntary, it is required that at the time of the making of the confession, the mind of the defendant be free and

uninfluenced by either hope or fear.

The confession should be excluded if the attending circumstances or the declarations of those present at the making of the confession are calculated to delude the prisoner as to his true position or to exert improper and undue influence over his mind.

Once it is established that there were coercive influences attendant upon an initial confession, the coercion is presumed to continue unless clearly shown to have been removed prior to a subsequent.

The inquiry is whether under the circumstances, the influence of the coercion that produced the first confession was dissipated so that a second confession was a voluntary act of a free will.

The last case, Judge, I would cite is State v. Moore, 530 Southern Second 349. On page 351, when psychological tactics are used between questioning, the totality of the circumstances should be such factors as youth, lack of education, low intelligence and the length of interrogation to determine

the voluntariness.

If you examine the testimony that went before the court, at a minimum Fraser should have read him his Miranda rights. We are not talking about a man with a high degree of education. We are talking about a different officer and different environment and about a different set of facts coupled with all the other stuff of Detective Becksfort which I think lends itself to a situation at a minimum that Mr. Beaton should have been read his Miranda rights.

THE COURT: Mr. Suskauer, I don't mean to demean your knowledge of the law, to shorten your presentation, keep in mind I have been reading and dealing with these cases a long time.

I get reversed just as good as any other trial court and I am aware of my own infallibility. But I really don't need too much explanation about the case law, I don't think.

I am not criticizing you, I am telling you I think I have been dealing in

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IN THE UNITED STATES SUPREME COURT

IN RE:

WAYNE M. BEATON, S.CT. CASE NO:
PETITIONER,

_____/

PETITION FOR APPOINTMENT OF COUNSEL

The Petitioner, Wayne M. Beaton, in proper person, in good faith and in the interest of justice submits this petition before this Honorable Supreme Court Justice, whereby, requesting for this reputable court of justice to appoint him an attorney to competently and effectively represent him before this court, in regards to his petition for extraordinary writ, a matter of great importance of fundamental magnitude of essential constitutional violation and deprivation of liberty.

In support hereof Petitioner would set forth the following:

1. Petitioner has been incarcerated for over 25 years now for crime he was compelled to falsely admit to that he did not commit.

2. At the time of Petitioner's arrest and custody, he was ignorant of the laws and procedures and had a dyslexia disorder with a very low IQ. He was in his late teenage years.

3. Petitioner has been litigating his case pro se before the state and federal courts for over 25 years now with no relief.

4. Petitioner is destitute and has no other recourse and/or resources to

acquire any legal assistance to competently represent him before any judicial tribunal.

5. Due to Petitioner's disadvantage of being incarcerated and lack of knowledge of the law and ineptitude in litigation he has been unsuccessful inadequately presenting his case before any judicial tribunal.

6. Legal counsel is a requisite for competent and adequate effective litigation-representation upon extraordinary writ before this reputable court of justice, to advocate Petitioner's innocence and the constitutional violations that caused him to be wrongfully convicted and deprived of his fundamental liberty.

7. Legal representation by a competent and reputable professional attorney will be of substantial aid before this court to efficiently present the fundamental miscarriage of justice that the lower courts did not redress. The appointment of counsel will be of indispensable fairness to the administration of our adversary system of criminal justice.

8. Petitioner is serving an unjust life sentence that will continue to deprive him of his fundamental liberty for the rest of his life. The appointment of legal representation of counsel will be of fundamental fairness in the interest of justice and for the finality of the injustice that has been perpetuating for over a quarter of a century without any rectification.

9. Conventional notions of finality of litigation have no place where life

or liberty is at stake and infringement of constitutional rights is alleged. Sanders v. U.S., 373 U.S. 1, at 8, 83 S.Ct. 1068, at 1072 (1963) where a fundamental miscarriage of justice has infringed on constitutional rights that deprived Petitioner of his essential liberty for life, the finality of justice will not be served without the appointment and assistance of counsel for fundamental fairness of redress.

Respectfully submitted,

Wayne Beaton

Petitioner, Pro Se
Wayne M. Beaton, DC#469447
~~Marion Correctional Institution~~
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~~Ocala, FL 34481~~

Ficate of Service

Petitioner, a prisoner in the
rtment of Corrections, pro se, do
and correct copy of the Foregoing
Counsel has been placed in the
official or the mail box For mailing
hail to: clerk of court, supreme
one First street, N.E.,
Ashley Moody, state Attorney
General of Florida, office of the state Attorney General,
Department of legal Affairs, The capitol, Tallahassee, Fla.
32399-1050; on this ~~December~~ 12th day of February 2021.

Wayne Beaton,
Petitioner/Prisoner, Pro se

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