

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

_____ Term, 20____

Bryan K. Brown,

Petitioner

v.

Bon Neal, Warden,

Respondent

Motion for Leave To Proceed In Forma Pauperis

the petitioner ask leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

The Petitioner, in accordance with the provisions of Title 28, United States Code, § 1915, and Rule 46 of the Rules of the Supreme Court of the United States, hereby moves the Court for an Order granting Petitioner leave to proceed in forma pauperis in filing and otherwise prosecuting the Petition for Writ of Certiorari filed simultaneously herewith.

[] Petitioner has previously been granted leave to proceed *in forma pauperis* in any other court. _____

[X] Petitioner has not previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Bryan K. Brown #941740
Petitioner, pro se
Indiana State Prison
One Park Row St.
Michigan City, IN 46360

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
_____ Term, 20__

Bryan K. Brown,

Petitioner

v.

Howeal, Jarden,

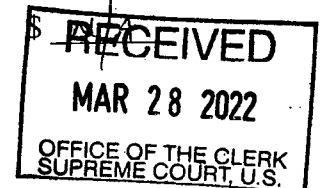
Respondent

Affidavit in Support of Motion Seeking Authorization To Proceed In Forma Pauperis

I, Bryan K. Brown, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefore; and I believe I am entitled to redress.

16. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

| Income Source | Average monthly Amount During the past 12 Months | | Amount Expected next Month | |
|--|---|---------------|-------------------------------|---------------|
| | You | Spouse | You | Spouse |
| Employment | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Income from Real Property (Such as Rental Income) | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Interest and Dividends | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Gifts | \$ <u>50</u> | \$ <u>N/A</u> | \$ <u>50</u> | \$ <u>N/A</u> |
| Alimony | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |



| | | | | |
|---|--------------|---------------|--------------|---------------|
| Child Support | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Retirement (Such as Social Security, Pensions, Annuities Insurance) | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Disability (Such as Social Security, Insurance Payments) | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Unemployment Payments | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Public-assistance (Such as Welfare) | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Other (Specify): | \$ <u>0</u> | \$ <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Total Monthly Income: | \$ <u>50</u> | \$ <u>N/A</u> | \$ <u>50</u> | \$ <u>N/A</u> |

17. List your employment history for the past two years, most recent first. (gross monthly pay is before taxes or other deductions.)

| Employer | Address | Dates of Employment | Gross Monthly Pay |
|------------|------------|---------------------|-------------------|
| <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

18. List your spouse's employment history for the past two years, most recent employer first. (gross monthly pay is before taxes or other deductions.)

| Employer | Address | Dates of Employment | Gross Monthly Pay |
|------------|------------|---------------------|-------------------|
| <u>N/A</u> | <u>N/A</u> | <u>N/A</u> | <u>N/A</u> |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

19. How much cash do you and your spouse have? 0

| Financial Institution(s) | Type of Account | Amount You Have | Amount Your Spouse Has |
|--------------------------|-----------------|----------------------------|------------------------|
| <u>N/A</u> | <u>N/A</u> | \$ <u>N/A</u> D | \$ <u>N/A</u> |
| _____ | _____ | \$ _____ | \$ _____ |
| _____ | _____ | \$ _____ | \$ _____ |
| _____ | _____ | \$ _____ | \$ _____ |

20. List the assets, and their values, which you own or your spouse owns. (do not list clothing and ordinary household furnishings.

| | |
|---|---|
| <input type="checkbox"/> Home Value \$ _____ | <input type="checkbox"/> Other real estate Value \$ _____ |
| <input type="checkbox"/> Motor Vehicle #1 year: _____ make: _____ _____ and model : _____ value: \$ _____ | <input type="checkbox"/> Motor Vehicle #2 year: _____ make: _____ _____ and model : _____ value: \$ _____ |
| <input type="checkbox"/> other assets Description: _____ Value: _____ | |

21. State every person, business, or organization owing you or your spouse money, and the amount owed.

| Person Owing You or Your Spouse Money | Amount Owed to You | Amount Owed to Your Spouse |
|---------------------------------------|--------------------|----------------------------|
| <u>N/A</u> | \$ <u>N/A</u> | \$ <u>N/A</u> |
| _____ | \$ _____ | \$ _____ |
| _____ | \$ _____ | \$ _____ |

7. State the person who rely on you or your spouse for support

| Name | Relationship | Age |
|------|--------------|-----|
| N/A | N/A | N/A |
| | | |
| | | |

8. Estimate the average monthly expenses of your and your family. show separately the amounts paid by your spouse. adjust any payments that are made weekly, biweekly, quarterly, or annually to show that monthly rate.

| | You | Your Spouse |
|---|------------------------------|-----------------------------|
| Rent or Home-mortgage Payment (Include Lot Rented for Mobile Home) | \$ <u>0</u> | \$ <u>N/A</u> |
| Are Real Estate Taxes Included? | <input type="checkbox"/> yes | <input type="checkbox"/> No |
| Is Property Insurance Included? | <input type="checkbox"/> yes | <input type="checkbox"/> No |
| Utilities (Electricity, Heating Fuel, Water, Sewer, and Telephone) | \$ <u>0</u> | \$ <u>N/A</u> |
| Home Maintenance (Repairs and Upkeep) | \$ <u>0</u> | \$ <u>N/A</u> |
| Food | \$ <u>50</u> | \$ <u>N/A</u> |
| Clothing | \$ <u>0</u> | \$ <u>N/A</u> |
| Laundry and Dry-cleaning | \$ <u>0</u> | \$ <u>N/A</u> |
| Medical and Dental Expenses | \$ <u>0</u> | \$ <u>N/A</u> |
| Transportation (Not Including Motor Vehicle Payments) | \$ <u>0</u> | \$ <u>N/A</u> |
| Recreation, Entertainment, Newspapers, Magazines, Etc. | \$ <u>0</u> | \$ <u>N/A</u> |

Insurance (Not Deducted from Wages or Included in Mortgage Payments)

| | | |
|-------------------------|---------------|---------------|
| Homeowner's or Renter's | \$ <u>0</u> | \$ <u>N/A</u> |
| Life | \$ <u>0</u> | \$ <u>N/A</u> |
| Health | \$ <u>0</u> | \$ <u>N/A</u> |
| Motor Vehicle | \$ <u>0</u> | \$ <u>N/A</u> |
| Other: <u>N/A</u> | \$ <u>N/A</u> | \$ <u>N/A</u> |

Taxes (Not Deducted from Wages or Included in Mortgage Payments)

(Specify): N/A \$ N/A \$ N/A

Installments Payments

| | | |
|---|---------------|---------------|
| Motor Vehicle | \$ <u>0</u> | \$ <u>N/A</u> |
| Credit Card(s) | \$ <u>0</u> | \$ <u>N/A</u> |
| Department Store(s) | \$ <u>0</u> | \$ <u>N/A</u> |
| Other: <u>N/A</u> | \$ <u>N/A</u> | \$ <u>N/A</u> |
| Alimony, Maintenance, and Support Paid to Others | \$ <u>0</u> | \$ <u>N/A</u> |
| Regular Expenses for Operation of Business, Profession, or Farm (Attach Detailed Statement) | \$ <u>0</u> | \$ <u>N/A</u> |
| Other (Specify): <u>N/A</u> | \$ <u>0</u> | \$ <u>N/A</u> |
| Total Monthly Expenses: | \$ <u>50</u> | \$ <u>N/A</u> |

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

[]
Yes []
No

If yes, describe on an attached sheet:

10. Have you paid - or will you be paying- an attorney any money for services in connection with this case, including the completion of this form? [] Yes [☒] No

if yes, how much? N/A

if yes, state the person's name, address, and telephone number:

Name: N/A Telephone No. N/A
Address: _____

11. Have you paid- or will you be paying-anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form? []
Yes [] No

If yes, how much? N/A

if yes, state the person's name, address, and telephone number:

Name: N/A Telephone No. N/A
Address: _____

12. Finally, the undersigned also represents and certifies to the Court that the Petitioner has remained incarcerated in at the Indiana State Prison since the Order of Judge _____ was entered allowing Petitioner to proceed in forma pauperis in his appeal to the United States Court of Appeals for the _____ Circuit and since the undersigned was appointed by the United States Court of Appeals for the _____ Circuit as set out above. Consequently, the financial condition of the Petitioner, on the undersigned's information and belief, has not substantially improved and the Petitioner is entitled to proceed herein in forma pauperis to obtain the relief he is entitled to and to file, serve and prosecute his Petition for Writ of Certiorari without printing the same.

Respectfully submitted this 30th day of August,

2021.

Bryan Brown # 941740

Petitioner, pro se
Indiana State Prison
1 Park Row St.
Michigan City, IN46360

TFMITRAN
LOC: ISP

OFFENDER TRUST SYSTEM
TRANSACTION HISTORY INQUIRY

08/06/21 13:24:39
USER: SPU804

OFFENDER NO 941740 NAME: BROWN BRYAN

FROM DATE: 08 / 06 / 2001 TO DATE: 08 / 06 / 2021 STATUS: AC HSE UNIT: A

| | | ENDING BALANCE (END OF MONTH)= | | | | \$1,696.95 | |
|-----------------|--------------|--------------------------------|--------------|--------------|--------------|----------------|-------------------|
| DOCMT NUMBER | TRAN CODE | DESCRIPTION | TRAN TYPE | POST DATE | BATCH NO. | TRAN AMOUNT | ACCOUNT NUMBER |
| ===== | ===== | ===== | ===== | ===== | ===== | ===== | ===== |
| 0283069798 | ELEC | maynard,donna | C | 02/04/2021 | 008 | \$50.00 | 941740 |
| ISP 01/22 | COMM | ISP-00001460882A / 001 | D | 01/22/2021 | 029 | \$4.12 | 941740 |
| ISP 01/22 | COMM | ISP-00001460882B / 001 | D | 01/22/2021 | 029 | \$0.16 | 941740 |
| LAW LIBRAR | ISRV | 1/7/21 | D | 01/19/2021 | 014 | \$2.10 | 941740 |
| ISP 01/08 | COMM | ISP-00001420510A / 001 | D | 01/08/2021 | 040 | \$55.33 | 941740 |
| 6569704737 | ELEC | Meschberger,Tina | C | 01/01/2021 | 001 | \$50.00 | 941740 |
| ISP 12/25 | COMM | ISP-00001387589A / 001 | D | 12/25/2020 | 003 | \$25.20 | 941740 |
| COMM CR | ADJC | ISP-000001356394/REFUND | C | 12/15/2020 | 010 | \$3.30 | 941740 |
| 0123422665 | ELEC | DOC HOLIDAY,GIFT | C | 12/15/2020 | 008 | \$3.00 | 941740 |
| 2424761633 | ELEC | Meschberger,Tina | C | 12/12/2020 | 001 | \$20.00 | 941740 |
| PAGE : 0005 | | | | | | | |

PF2=DISPLAY TRANSACTIONS PF7=PG/UP PF8=PG/DN *PF9=CLEAR SCREEN* PF10=EXIT

OFFENDER NO 941740 NAME: BROWN BRYAN

FROM DATE: 08 / 06 / 2001 TO DATE: 08 / 06 / 2021 STATUS: AC HSE UNIT: A

| | | ENDING BALANCE (END OF MONTH)= | | | | \$1,696.95 | |
|-----------------|--------------|--------------------------------|--------------|--------------|--------------|----------------|-------------------|
| DOCMT NUMBER | TRAN CODE | DESCRIPTION | TRAN TYPE | POST DATE | BATCH NO. | TRAN AMOUNT | ACCOUNT NUMBER |
| ===== | ===== | ===== | ===== | ===== | ===== | ===== | ===== |
| ISP70238 | MEDC | | D | 03/23/2021 | 022 | \$1.97 | 941740 |
| ISP 03/19 | COMM | ISP-031921-0026A / 001 | D | 03/19/2021 | 014 | \$95.76 | 941740 |
| ISP 03/19 | COMM | ISP-031921-0026B / 001 | D | 03/19/2021 | 014 | \$2.43 | 941740 |
| 3040759071 | ELEC | Bonner,Catrenna | C | 03/16/2021 | 018 | \$50.00 | 941740 |
| 9805414758 | ELEC | maynard,donna | C | 03/16/2021 | 018 | \$50.00 | 941740 |
| ISP 03/05 | COMM | ISP-030521-0116A / 001 | D | 03/05/2021 | 001 | \$9.62 | 941740 |
| ISP 02/19 | COMM | ISP-021921-0063C / 001 | D | 02/19/2021 | 003 | \$12.32 | 941740 |
| ISP 02/19 | COMM | ISP-021921-0063A / 001 | D | 02/19/2021 | 003 | \$79.45 | 941740 |
| 0807302431 | ELEC | maynard,donna | C | 02/16/2021 | 023 | \$100.00 | 941740 |
| ISP 02/05 | COMM | ISP-020521-0118A / 001 | D | 02/05/2021 | 001 | \$51.74 | 941740 |
| PAGE : 0004 | | | | | | | |

PF2=DISPLAY TRANSACTIONS PF7=PG/UP PF8=PG/DN *PF9=CLEAR SCREEN* PF10=EXIT

TFMITRAN
LOC: ISPOFFENDER TRUST SYSTEM
TRANSACTION HISTORY INQUIRY08/06/21 13:24:39
USER: SPU804

OFFENDER NO 941740 NAME: BROWN BRYAN

FROM DATE: 08 / 06 / 2001 TO DATE: 08 / 06 / 2021 STATUS: AC HSE UNIT: A

| DOCMT NUMBER | TRAN CODE | DESCRIPTION | TRAN TYPE | POST DATE | BATCH NO. | TRAN AMOUNT | ACCOUNT NUMBER |
|--------------------------------|--------------|------------------------|--------------|--------------|--------------|----------------|-------------------|
| ENDING BALANCE (END OF MONTH)= | | | | | | \$1,696.95 | |
| ISP 04/19 | COMM | ISP-041921-0045G / 001 | D | 04/19/2021 | 018 | \$3.73 | 941740 |
| ISP 04/19 | COMM | ISP-041921-0045A / 001 | D | 04/19/2021 | 018 | \$90.00 | 941740 |
| ISP 04/19 | COMM | ISP-041921-0045B / 001 | D | 04/19/2021 | 018 | \$10.98 | 941740 |
| ISP071913 | MEDC | | D | 04/15/2021 | 010 | \$10.00 | 941740 |
| 8039000351 | ELEC | maynard,donna | C | 04/14/2021 | 030 | \$70.00 | 941740 |
| R 299198 | CHKG | US TREAS EIP | C | 04/12/2021 | 010 | \$1,400.00 | 941740 |
| ISP 04/01 | COMM | ISP-040121-0047A / 001 | D | 04/01/2021 | 006 | \$37.95 | 941740 |
| ISP 04/01 | COMM | ISP-040121-0047B / 001 | D | 04/01/2021 | 006 | \$2.32 | 941740 |
| ISP70238 | MEDC | | D | 03/30/2021 | 004 | \$8.03 | 941740 |
| 3455715685 | ELEC | maynard,donna | C | 03/30/2021 | 002 | \$50.00 | 941740 |

PAGE : 0003

PF2=DISPLAY TRANSACTIONS PF7=PG/UP PF8=PG/DN *PF9=CLEAR SCREEN* PF10=EXIT

12:24:45 Friday, August 6, 2021

TFMITRAN
LOC: ISP

OFFENDER TRUST SYSTEM
TRANSACTION HISTORY INQUIRY

08/06/21 13:24:39
USER: SPU804

OFFENDER NO 941740 NAME: BROWN BRYAN

FROM DATE: 08 / 06 / 2001 TO DATE: 08 / 06 / 2021 STATUS: AC HSE UNIT: A

| | | ENDING BALANCE (END OF MONTH)= | | | \$1,696.95 | | |
|-----------------|--------------|--------------------------------|--------------|--------------|--------------|----------------|-------------------|
| DOCMT NUMBER | TRAN CODE | DESCRIPTION | TRAN TYPE | POST DATE | BATCH NO. | TRAN AMOUNT | ACCOUNT NUMBER |
| ===== | ===== | ===== | ===== | ===== | ===== | ===== | ===== |
| ISP 05/14 | COMM | ISP-051421-0076B / 001 | D | 05/14/2021 | 002 | \$3.58 | 941740 |
| ISP 05/14 | COMM | ISP-051421-0076A / 001 | D | 05/14/2021 | 002 | \$48.49 | 941740 |
| COMM CR | ADJC | ISP16118S-051121/REFUND | C | 05/11/2021 | 022 | \$4.02 | 941740 |
| 9545893153 | ELEC | maynard, donna | C | 05/10/2021 | 018 | \$45.00 | 941740 |
| COMM CR | ADJC | ISP-043021-00026/REFUND | C | 05/04/2021 | 022 | \$5.30 | 941740 |
| ISP 04/30 | COMM | ISP-043021-0026A / 001 | D | 04/30/2021 | 003 | \$85.44 | 941740 |
| ISP 04/30 | COMM | ISP-043021-0026B / 001 | D | 04/30/2021 | 003 | \$0.98 | 941740 |
| CK 64509 | EPUR | CATREENA BONNER | D | 04/28/2021 | 008 | \$1,700.00 | 941740 |
| CK 64338 | EPUR | CARTRINNA BONNER | D | 04/22/2021 | 011 | \$1,300.00 | 941740 |
| EIP | CHKG | R299921 | C | 04/19/2021 | 025 | \$1,800.00 | 941740 |
| PAGE : 0002 | | | | | | | |

PF2=DISPLAY TRANSACTIONS PF7=PG/UP PF8=PG/DN *PF9=CLEAR SCREEN* PF10=EXIT

INDIANA STATE PRISON

Resident Activity Report

Resident Id: 941740
 Full Name: BROWN, BRYAN
 Housing: ISP, ISP, A, A4, 449

Run Date: 08/06/2021
 From: 06/28/2021
 To: 08/06/2021

Beginning Balances

| Account | Balance | Debt |
|------------------|---------|--------|
| Primary - Trust | \$0.00 | \$0.00 |
| Re-entry Savings | \$0.00 | \$0.00 |
| | \$0.00 | \$0.00 |

Ending Balances

| Account | Balance | Debt |
|------------------|----------|--------|
| Primary - Trust | \$285.58 | \$0.00 |
| Re-entry Savings | \$263.37 | \$0.00 |
| | \$548.95 | \$0.00 |

Activity

| Task # | Date | Type | Comment | Entry # | Amount | Balance | Debt |
|-----------------|---------------------|----------------------|---------------------------|------------|------------|-----------|--------|
| 18969 | 06/28/2021 17:55:56 | Intake | Automated Intake | | \$0.00 | \$0.00 | \$0.00 |
| 18970 | 06/28/2021 17:55:56 | Resident Deposit | Automated Beg Bal Deposit | | \$1696.95 | \$1696.95 | \$0.00 |
| 18971 | 06/28/2021 17:55:56 | Resident Deposit | Automated Beg Bal Deposit | | \$263.37 | \$1960.32 | \$0.00 |
| 95357 | 06/28/2021 18:56:51 | Change Housing | Automated Housing Change | | \$0.00 | \$1960.32 | \$0.00 |
| 234996 | 07/09/2021 22:20:03 | Transfer Other Funds | ICI Sales Processing | 07/09/2021 | -\$9.56 | \$1950.76 | \$0.00 |
| 234997 | 07/09/2021 22:20:03 | Transfer Other Funds | ICI Sales Processing | 07/09/2021 | -\$105.09 | \$1845.67 | \$0.00 |
| 234998 | 07/09/2021 22:20:03 | Transfer Other Funds | ICI Sales Processing | 07/09/2021 | -\$9.44 | \$1836.23 | \$0.00 |
| 284794 | 07/14/2021 08:55:56 | Resident Withdrawal | CATRENNA BONNER | 2061 | -\$1200.00 | \$636.23 | \$0.00 |
| 395015 | 07/23/2021 22:20:02 | Transfer Other Funds | ICI Sales Processing | 07/23/2021 | -\$2.01 | \$634.22 | \$0.00 |
| 395016 | 07/23/2021 22:20:02 | Transfer Other Funds | ICI Sales Processing | 07/23/2021 | -\$85.27 | \$548.95 | \$0.00 |
| Ending Balances | | | | | | \$548.95 | \$0.00 |

IN THE SUPREME COURT OF THE UNITED STATES

BRYAN K. BROWN—PETITIONER

VS.

RON NEAL (WARDEN)—RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

BRYAN K. BROWN #941740

ISP A449

ONE PARK ROW

MICHIGAN CITY, IN. 46360

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QUESTION (S) PRESENTED

I. The Courts, the PC Court, the District Court, and the United States Court of Appeals for the Seventh Circuit all are answering the question of rather or not the prosecutor withholding from the jury a second shooter in a felony murder case, where the defendant's alleged co-perpetrator was killed during a felony attempt "*Palmer*", has any bearing on a defendant's trial. A question that has not been, but should be, settled by this Court: (More formally: Brown was tried in the state court on the theory that Brown and his friend Lawrence Duff attempted to rob Eric Johnson and his girlfriend Sonia Rivera when Johnson shot and killed Duff and this was why Brown was charged with felony murder. During the trial it came out that Rivera was shooting the same gun Johnson used to kill Duff with first.) Brown ask this Court to weigh in on the questions of whether the PC Court had a duty to take Judicial Notice of Rivera also shooting, did Brown deserve a different review of his appeal in context of "*Fox*", "*Hammers*", and "*Taylor*" in light of this exculpatory evidence, and was Brown's appeal fair if the courts refuse to consider this evidence in their decision? If Rivera was shooting first and caused Brown and Duff to begin to retreat, wouldn't that end whatever the state wishes to allege started the situation? "*Palmer*" Once Rivera stopped shooting, since no one was dead at that point, shouldn't everything Johnson did with the gun after this point, be on Johnson, not Brown or anyone else? If Johnson and Rivera lied about how the shooting took place, is it not reasonable to believe they are lying about the attempt, is the State's evidence sufficient?

II. The United States Court of Appeal for the Seventh Circuit has decided an important question in a way that has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power, an important question of federal law that has not been, but should be settled by this Court. Whether Brown received a fair

trial and the effective assistance of Trial Counsel in the context of “*Palmer*”, when Brown’s trial attorney failed to investigate Brown’s claim that Sonia Rivera was shooting first? (More formally: Brown’s argument that during the trial the judge, while answering the question of rather or not Brown deserved self-defense instructions, after sitting through the evidence at trial, in doing so, her rational was, the only way that she could give Brown self-defense instructions was, if Rivera was also shooting. She continued to ask the attorneys if they now, after hearing the evidence in real time, also think that Rivera was also shooting, and they all had to agree that they did think that now. Brown argued that it was at this point his attorney’s mistake cost [him] the chance for a mistrial for prosecutor misconduct for keeping this fact from the jury. Had he investigated Brown’s claim, at this point, he could have motion the court to get the prosecutor to correct that misconduct. Challenging the whole case in the context of “*Palmer*”). And whether or not this question was a proper challenge to the prosecutor’s conduct, when the court found Brown did not raise prosecutor misconduct? Could Brown’s evidence be sufficient to support attempting to rob collectively, when the jury found him not guilty of conspiring to commit the same act? In the context of “*Palmer*”, if the jury had believed that this was a drug deal, not robbery attempt, would they not have to find Brown not guilty of felony murder during a robbery attempt? Did Brown’s “signed” discussion with his attorney justify an affidavit in the context of “*Knight*”? And the Constitutionality of felony murder being too harsh a punishment in the context of “*Palmer/Brown*”?

III. Rather or not the remedy for Brown’s Motion to Dismiss for the state defaulting on Appellate Rule 11 rendered by the District Court of Indiana, although it was granted, was just, proper, and equal under equal protection of the law? (More Formally: the courts remedy in response to Brown’s Motion to Dismiss in response to the state defaulting on Appellate Rule 11, was to give the state more time, only to turn around and default Brown and dismiss his appeal with

prejudice for the default. The district court found no fault with Brown, hearing his issues. Since the court found no fault with Brown's appeal, now this Court is able to judge this question in real time concerning equal protection of the law by affording Brown the same remedy the state received when they claimed Brown defaulted on his claims, and it was dismissed with prejudice. Should not the state's case also be dismissed with prejudice, under equal protection of the law in response to Brown's Motion to Dismiss for defaulting on Appellate Rule 11?

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

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

TABLE OF AUTHORITIES Cases

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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

_____ Term, 20:_____

Bryan K. Brown,

Petitioner

v.

RON NEAL, Warden,

Respondent

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

[☒] For cases from Federal Courts:

The opinion of the United States Court of Appeals appears at Appendix C to the petition
and is

[] reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinions of the United States District Court appears at Appendix D to the
the petition and is

☒ reported at 2019 U.S. Dist. Lexis 111000; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ cases from state courts:

the opinion of the Highest State Court to review the merits appears at Appendix F to the
petition and is

☒ reported at 98 N.E.3d 71; 2008 Ind. Lexis 320; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the INDIANA COURT OF App. court appears at Appendix I to
the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

JURISDICTION

☒ For cases from **Federal Courts**:

The date on which the United States Court of Appeals decided my case was 11-09-20.

☒ No petition for rehearing was timely filed in my case.

☐ a timely petitioner for rehearing was denied by the United States court of Appeals on the following date : _____, and a copy of the order deny rehearing appears at Appendix ____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (Date) in Application No. ____ A ____.

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

☐ For cases from **State Courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix ____.

☐ a timely petitioner for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix ____.

☐ an extension of time to file the petition for writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

JURISDICTION STATEMENT

The legal question presented by petitioner has never before been decided by the circuit court *Houston v Lack*, 487 U.S.266, 269 (1988) “question of first impression in the jurisdiction” see also *Julius v Jones*, 875 F.2d 1520, 1525-26 (11th Cir.), cert. denied, 493 U.S. 900 (1989)

District court and the Court of Appeals erred in denying [petitioner] a certificate of appealability because under the standard set forth in *Barefoot*...[petitioner] made a substantial showing that he was denied the right to effective assistance of counsel. (see *Guts v INS*, 908 F.2d 495 (9th Cir.1990)(finding a frivolousness under section 1915 (d) could not be made because “there is controlling authority” on issue and “there is some authority in the “*Palmer*” case to support the plaintiff position.

The proper adjudication of the claim may require additional evidentiary development *Smith v Wainwright*, 737 F.2d 1036, 1037 (11th Cir.1984) (certificate granted because “district court refused to hold an evidentiary hearing to develop the true factual setting in which this claim must be judged”); *Ford v Strickland*, 734 F.2d 538, 543 (11th Cir)(per curiam), aff’d sub nom. *Wainwright v Ford*, 467 U.S. 1220 (1984)(mem.)(“evidence and legal precedent upon which [petitioner] relies “were not previously available”); *Mattheson v Maffio*, 714 F.2d 362, 365 (5th Cir. 1983)(per curiam)(certificate cannot be withheld, given doubts about evidentiary and legal status of petitioner’s claims cause by counsel’s failures not attributed to petitioner)

A reasonable doubt exist as the whether the district court “fully and fairly adjudicated” the matter given the actions of the court or the state of the possible incompetence of petitioner’s counsel.

The Supreme Court has jurisdiction under [28 U.S.C.] § 1254 (1) to review denials of applications for certificates of appealability by a circuit judge or a panel of a court of appeals *Hohn v united States*, 118 S.Ct. 1969, 1978 (1988).

CONSTITUTIONAL, STATUTORY PROVISIONS AND RULES INVOLVED

INDIANA CODE 35-42-1-1

INDIANA RULE OF PROFESSIONAL CONDUCT RULE 3.3a

CASE NO.

BRYAN K. BROWN,) APPEAL from the UNITED STATES COURT DISTRICT for
APPELLANT,) the NORTHERN DISTRICT of INDIANA, SOUTH BEND DIV
V.) Ca No. 3:18-CV-00487-PPS-MGG
RON NEAL (WARDEN),
APPELLEE.)
) JON E. DeGUILIO
) CHIEF JUDGE

APPELLANT'S PETITION TO TRANSFER

On August 10, 2002 Eric Johnson shot and killed Lawrence Duff inside the door of Johnson's apartment. Johnson and his girlfriend, Sonia Rivera, left the apartment locking Duff inside. They drove past three police officers sitting at the intersection talking among themselves and did not attempt to stop and tell them that something had just happen. (Original Trial Transcripts (Tr.) pg. 99) Sometime after they left the apartment complex, Johnson called 911 from the vehicle (Tr.pg.62, 89, 232). When they returned to the apartment, police was already there (Tr.pg.63). Police confiscated a .45 revolver from Johnson's person. He did not have a license to carry (Tr.pg. 132, 259).

When Eric Johnson and Sonia Rivera gave their story to police about how Duff was killed, they told police that, they were on their way to breakfast open the front door and these guys were just standing there (Tr.pg. 91-92, 246). They told police that Rivera ran back to the bedroom and

then the men entered the apartment (Tr.pg. 268). The men, they said, pushed Johnson back into the apartment and began questioning him about money and items of value in the apartment (Tr.pg. 207). Johnson told police that he manage to obtain the gun from the bigger man, that he ran to the master bedroom, he grabbed his revolver, the intruders he said, started shooting at him, and he only shot after being fired upon (Tr.pg 33, 253, 255-256, 257, 452).

The state charged Brown with felony murder in the commission of an attempt robbery, conspiracy to commit robbery, serious violent felon in possession of a firearm, battery, and fleeing. Brown filed for a fast and speedy trial. During the depositions of the two state's witnesses, Eric Johnson and Sonia Rivera, changed their stories. Now, Johnson was going to Rivera's car to retrieve a CD (Tr.pg. 199-200). He was re-entering the apartment when the men accosted him (Tr.pg. 207). Johnson said he escaped the grips of one of the individuals, ran into the bedroom and began to struggle over the .45 semi-automatic with Brown (Tr.pg. 56). As Johnson and Brown struggled on the bed over the .45 semi-automatic, a shot rang out (Tr.pg. 57, 173). After Johnson gained control over the gun, he through the gun across the bed and grabbed his own .45 revolver off the dresser (Tr.pg. 174-175, 209). Johnson testified he fired his gun at the men before they exited the apartment (Tr.pg. 59, 174). Rivera, whom statement somehow got lost during the depositions, testified that she walked into the living room and saw Duff lying on the floor (Tr.pg. 61, 134). At some point Brown was shot twice, once in the chest and once in the buttock.

When asked why they were changing their story, Johnson admitted he gave a fictitious version of the events to the police because the truth suggested he knew the men (Tr.pg. 296).¹ Rivera testified that Johnson instructed her regarding what she should tell the police (Tr.pg. 102).

¹ No evidence of force entry was presented at trial.

Brown advised his attorney and wrote letters to the judge and prosecutor attempting to file charges on Rivera for shooting him twice. In his letter Brown gave a different version of what happen. Brown alleged that Lawrence Duff and Eric Johnson began to argue over a drug dispute. That during their argument a gun was pulled. During the struggle between Duff and Johnson the gun came lose and Brown went after it to get to it before Johnson did. That during the struggle that ensued between Johnson and Brown, Rivera started shooting, shooting Brown twice and Duff once (Tr.pg. 33, 33(a) Appendix (App. I pg. 276-279), Sept. 15, 2015 Evidentiary Hearing Transcripts (EH.Tr.) pg. 35-36 App. I. pg. 300) In Eric Johnson's apartment they found 58 grams of crack cocaine, three scales, and baggies with the corners pulled (Tr.pg. 245, 465, 470). Johnson was arrested for dealing in cocaine (Tr.pg. 277, 278). Johnson testified at Brown's trial under use immunity.

When the prosecutor presented his case to the jury he failed to mention that Sonia Rivera was also shooting. Rivera testified, but never told the jury she was also shooting. Brown wanted to, but was not allowed to testify. The prosecutor in closing arguments told the jury that it didn't matter if they felt this was a drug deal that somehow went wrong (Tr.pg. 638-639). The jury convicted Brown on all counts, except for conspiracy to commit robbery, in which Brown was found not guilty. He was sentenced to a total of 60 years imprisonment (Tr.pg. 711-712). The court of appeals affirmed, finding Brown's self-defense instructions were properly rejected, defected felony murder instructions did not constitute reversible error, the evidence was sufficient to support Brown's convictions, and his sentence was proper.

On September 9, 2005 Brown filed for post-conviction relief (CCS).

On January 16, 2009 Attorney Hilary Ricks filed appearance (CCS).

On March 13, 2012 Attorney Hilary Ricks withdrew her appearance (CCS).

On March 5, 2015 Brown filed amended Petition for post-conviction relief alleging: ineffective assistance of trial counsel for (1) failing to investigate Brown's claim that Sonia Rivera was also shooting, (2) stipulating to the state's forensic evidence without explaining that evidence to the jury, (3) interfering with Brown's Constitutional right to testify in his own behalf, (4) violating Brown's right to a fast and speedy trial, (5) failing to object to prosecutor's comments during closing arguments (CCS).

On April 14, 2015 and September 15, 2015 Brown's evidentiary hearings were held (CCS App. I. pg. 280-330).

On August 2, 2016 Brown proposed his final facts and conclusions of law (CCS App. H. pg. 222-262).

On December 12, 2016 Trial Court Judge, Kurt Eisgruber, entered final judgment denying Brown post-conviction relief. With allegations (1) (2) (3) they combined all together and asserted that Brown sat and made the second shooter up while sitting in jail, just an attempt to weaken the state's case. And said since they knew what Brown was going to say was a lie, the lawyer had no obligation to put Brown on the stand. (4) that although the recording device has never malfunctioned in a case before, that Brown was prejudice by it would be speculating, (5) that the prosecutor was speaking to the dismissive prejudice that juries have when they see drugs involved in the homicide. (App. G. pg.191-205)

On January 4, 2017 Brown filed his Notice of Appeal with the court (CCS).

REASONS FOR GRANTING THE PETITION

Bryan Brown was charged and tried in the state court with felony murder during an attempted robbery where Brown's friend Lawrence Duff was killed by Eric Johnson. Johnson and his girlfriend, Sonia Rivera, testified that Brown and Duff attempted to rob them and during it, Johnson was able to fend off the, would be robbers, got his .45 revolver and fired "all" the shots eventually killing Duff. (*Palmer v State*, 704 N.E.2d 124, 126 (Ind.1999)(citing *Vance v State*, 620 N.E.2d 687, 690 (Ind.1993))

Prior to trial Brown wrote a letter to the prosecutor's office attempting to file charges against Sonia Rivera for shooting him twice and Duff once. In the letter, Brown said that the altercation arose from a business dispute that erupted into a fight between Duff and Johnson, that during the fight a gun was pulled, that the gun came lose, and [he] only got involved to get to the gun before Johnson did. That during the altercation that ensued between Brown and Johnson, Rivera started shooting Johnson's .45 revolver, shooting Brown twice and Duff once. The prosecutor introduced the letter into evidence (Tr.Ex. 33, 33(a) App. I pg. 276-277), but failed to tell the jury that Rivera was also shooting.

During the trial the prosecution never disclosed to the jury that Rivera was also shooting, even when it came up while considering jury instructions. Because Brown's trial attorney never investigated Brown's claim that Rivera was also shooting (Sept. 15, 2015 EH.Tr.pg 37-38 App. I. pg.300), when the opportunity presented itself for Brown's trial attorney to attempt to get the trial court to get the prosecution to correct the false testimony he presented (Tr.pg.523-524), he was

unprepared and Brown was convicted without the jury hearing the evidence that would have exonerated him in the context of “*Palmer*”, Brown was sentenced to 60 years.

FELONY MURDER IN THE CONTEXT OF “PALMER”

“The felony murder rule applies when, in committing any of the designated felonies, the felon contributes to the death of any person.” *Palmer v State*, 704 N.E.2d 124, 126 (Ind.1999) The state need not prove intent to kill in a felony murder charge, only the intent to commit the underlying felony. *Id.* at 177 (citing *Vance v State*, 620 N.E.2d 687, 690 (Ind.1993))

BROWN’S CHARGES/ JURY INSTRUCTIONS

Brown was charged with felony murder **Indiana Code (I.C.) 35-42-1-1** in the commission of an attempted robbery. The way Brown was charged and the jury was instructed: If the jury felt Brown was guilty of attempted robbery then the jury could convict of felony murder, but if the jury felt that this was not an attempted robbery, then they were instructed to find Brown not guilty of felony murder (see Preliminary Jury Instruction #4)

DUE PROCESS CLAUSE

Although there are multiple felonies underlying felony murder, each underlying felony has its own elements that must be proven to a jury beyond a reasonable doubt in each case. (Due Process Clause, requires that each element of a crime be proven to a jury beyond a reasonable doubt. *Alleyne v United States*, 570 U.S.(2013)(slip op. ,3)) In Brown’s trial his was attempted robbery.

BROWN'S STRICKLAND/CURTIS/ROCK CLAIM

A criminal defendant has a Constitution right to testify in his own behalf. See *Rock v Arkansas*, 483 U.S. 44, 49-53, 107 S.Ct. 2704, 97 L.ed.2d 37(1987); *Morgan v Kranke*, 232 F.3d 562, 569 (7th Cir.2000). This right is “an aspect of the [criminal defendants] right to defend himself.” *Underwood v Clarke*, 939 F.3d 473, 475 (7th Cir.1991), which arise from the Sixth Amendment’s guarantee of compulsory process to obtain favorable witnesses, see *Stephens v Miller*, F.3d 998, 1002 K(7th Cir.1994)(en banc) as well as the Fifth Amendment due process clause.

The right to take the stand in one own behalf is personal to the defendant, which means it can only be waived by the defendant himself, and not by his counsel. See *Jones v Barnes*, 463 U.S. 745, 751, 103 S.Ct. 3308, 77 L.ed.2d 987 (1983)(“the accused had the ultimate authority to make certain fundamental decision regarding the case, as to whether to...testify in his or her own behalf...”) *United States v Curtis*, 742, F2d. 1070 (7th Cir.1985). Moreover, because the defendant’s right is a fundamental constitution right “essential to due process of law in a fair adversary process,” *Rock*, 483 U.S. at 51, 107 S.Ct. 2704 (quotations omitted), the defendants waiver of the right must be knowing or intelligent (*Abraham v State* (1950), 228 Ind. 179, 185, 91 N.E.2d 358, 360).

The appropriate vehicle for such a claim is a claim of ineffective assistance of counsel under *Strickland v Washington. Law v State*, 797 N.E.2d 1157, 1161 (Ind.Ct.App.2003)

Brown argued that his trial attorney was ineffective for stipulating to the state’s forensic evidence and not explaining this evidence to the jury (Brown’s Travers and Reply to States Order To Show Cause (B.Tr.) pg. 17-22 Ground II App. E pg.95-152), evidence that supported that Sonia Rivera was also shooting. Brown also argued that his trial attorney was not prepared to explain

this evidence, because he failed to investigate Brown's claim that Rivera shot him, he testified that he didn't see what it mattered (Sept. 15, 2015 EH.Tr.pg 37-38 App. I. pg. 300).

Brown's defense was that this was not a robbery attempt, but a business dispute. There was almost 60 grams of crack cocaine, three scales, and baggies with the corners pulled found. Narcotics Detective, David Eliot, testified that the amount of cocaine was consistent with dealing by higher level drug dealers. Eric Johnson was initially arrested for dealing and possession of cocaine. Brown was convicted of dealing in cocaine in 1995 and charged with a class A felony dealing in cocaine, a class c felony of possession of cocaine, and two class D felony dealing and possession of marijuana, Brown was out on bond when he was charged with this offense.² Brown wanted to testify and had he testified to being a drug dealer and dealing drugs at this time, with all this evidence to support, there is a reasonable probability the jury would have felt Brown was a drug dealer and dealing drugs. And in the context of "*Palmer*", if the jury did feel Brown was a drug dealer and dealing drugs, according to preliminary jury instruction #4, if they did, because drug dealers and robbers have different elements to prove their actions, the jury would have had to find Brown not guilty of attempted robbery. Essentially acquitting Brown of felony murder.

Brown in his traverse asserted in his argument to the court that he was not in agreement to not testify. Brown and his trial attorney's "discussion" on Brown testifying, because the trial was still in session during this "discussion", it was on paper. Brown told his attorney he wanted to testify, but as the "discussion" went, Brown's attorney felt it was a bad trial strategy. Brown disagreed and told his attorney to advise the court of this disagreement. His attorney did (Tr.pg. 489-494). The record does not specify whether trial counsel ever framed this discussion as waiving the right to testify, because trial counsel knew that he could not, for that was not the case, hence

² Evidence that would have come out through Brown's background history if Brown did testify.

why Brown forced him to give him his signature on the “discussion” (EH.Ex.B, App.I pg. 263-264), a fact the prior courts are refusing to acknowledge as part in their decision. It was Brown’s trial attorney’s decision not to put Brown on the stand;

The court: And I think you would have to present in your—you didn’t present any defense of self-defense,

Mr. J. Baldwin: (Indiscernable)

Mr. S. Poore: See, he put the letter in. If he had not put the letter in, I might have told my client to do something different, I sat here all day waiting to see if he was going to do that.

Mr.Veen: But that’s my case, not his, and—

Mr. S. Poore: It doesn’t make a difference whose case it comes in on.

Although Brown had the complete “discussion” between he and his trial attorney concerning Brown testifying, that bears his trial attorney’s signature, the court felt like this was not enough to say that Brown’s attorney forbade him from testifying. *Gross v Knight*, 560 F.3d 668, 672 (7th Cir.2009) in which the court stated, “[a]n affidavit from the defendant’s attorney might suffice.” The “discussion” between Brown and his trial attorney regarding Brown testifying was being had in the middle of trial, how explicit could that have been, being that they could not talk without writing, on top of this fact, the portions of the “discussion” Brown has, nowhere prior, during, or after the fact is there “any” evidence that Brown’s attorney advised him of his Constitution right. *Abraham v State* (1950), 228 Ind. 179, 185, 91 N.E. 2d 358, 360). The court never advised Brown or made sure Brown was aware of this right. Brown has evidence that supports that he was not informed, there is no evidence presented to say otherwise.

Since there is an evidentiary dispute of whether or not Brown’s trial attorney forbade him from testifying, we must look to the prejudice to tip the scale. If Brown had testified to being a drug dealer and dealing drugs, not robbing, the jury, according to preliminary jury instruction #4, had no choice but to find Brown not guilty of attempt robbery. Essentially acquitting Brown of felony murder.

Since Brown's testimony was so important and critical to Brown's defense, since Brown has as close as he could get to an affidavit, in the context of all that went into Brown obtaining this "discussion" (EH.Ex.B, App.I.pg.263-264) and the surrounding circumstances that revolve around Brown testifying, the court should have found that Brown received ineffective assistance of trial counsel for interfering with Brown testifying, failing to explain to Brown his Constitution right to testify In his own behalf, not allowing the jury to be the final judge of Brown's testimony, with a fairly high probability that the outcome of Brown's trial would have been different.

There is, especially with Brown, the victim, testifying to the fact, no way there is not enough evidence for this Court, let alone a jury, not to believe that Rivera was also shooting. And since it's more than highly probable that Rivera was also shooting, now the question becomes, since she was, whose obligation was it to present this evidence to the jury? The court has already asserted in its Opinion that Brown's trial attorney was not ineffective for failing to put Brown on the stand (App.D.pg. 29-94), and if this is so, there is no way the obligation could be on Brown's trial attorney, because if it was or is, then Brown's trial attorney was ineffective for not putting Brown on the stand, for that was the only way that information could have gotten into Brown's trial through the defense's side. Since the court could not find Brown's attorney ineffective for failing to present to the jury that Rivera was also shooting, through Brown's testimony, then it is evident like Brown claimed in his argument, that the obligation to present this evidence was on the prosecution at Brown's trial. And because the prosecutor failed to present this evidence to the jury in Brown's trial, Brown's trial attorney should have been prepared to force the court to get the prosecutor to correct the false testimony he presented to the jury;

The Court: I know

Mr. Veen: --I was anticipating—

The Court: One of them would testify

Mr. Veen: There's no—

The Court: Well we have this letter

Mr. Baldwin: Yeah

Mr. S. Poore: That's my argument, Judge

The Court: Bryan Brown said that —

Mr. S. Poore: I think there's evidence—

The Court: --a confrontation ensued between Lawrence and Eric. Lawrence drew a gun. Mr. Brown said he pursued the gun also, then he says that sweet lady shot him, that poor innocent girlfriend who happen to be there at the wrong place at the wrong time.

Mr. J. Baldwin: The boys and girlfriends are the only ones who could put slug #20 in the wall here (indiscernable).³

The Court: Now you all think the girlfriend was shooting?

Mr. S. Poore: I must say that (indiscernable) (Tr.pg. 523-524),

and since he did not investigate, he was not prepared, so we cannot assert that Brown had a fair trial based on "all" the material evidence.

BROWN'S INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM FOR FAILING TO GET THE TRIAL COURT TO ADDRESS THE PROSECUTOR'S FAILURE TO CORRECT THE FALSE EVIDENCE HE PRESENTED AND THE PREJUDICE THAT FOLLOWED.

The significance of Sonia Rivera also shooting in Brown's case is of major importance due to the fact that Brown did not actually shoot or kill anyone. The state alleged that Brown was acting in concert with Duff attempting to rob Eric Johnson when Duff was killed and therefore Brown's actions holds him accountable for the death of Duff. ("*Palmer*") With Johnson being the only shooter, felony murder fits and therefore this argument would fail, but there were two shooters. Rivera first started inside the bedroom. When Rivera stopped shooting Johnson's .45 revolver there were three shots fired. Brown was hit twice (through and through) and Duff was shot once

³ Brown's DNA is on this bullet. Slug #20

(through and through). Brown and Duff ran to the front door to exit the apartment, but were trapped by the jammed lock (Tr.pg.58-59, 225, Sept. 15, 2015 EH.Tr.pg. 35-36 App. I. pg.300). But for the door being jammed, whatever the state wishes to allege started this situation, by this point was over. Rather these guys were aggressors or not, they were now retreating, unarmed. Johnson took the gun from Rivera with two shots remaining, starting his own episode. One shot missed and went into the apartment across the hall (slug #16). The second shot catching Duff as he was exiting the apartment. Johnson and Rivera had to step over Duff's body to get out of the apartment (Tr.pg. 230). Johnson's actions were his own. The state could have alleged attempted robbery, but the death of Duff didn't happen in the commission of, that ended when Rivera stopped shooting, Duff died at the hands of Johnson in retaliation of, not enough to support felony murder in the context of "*Palmer*".

Brown had to bring this issue under ineffective assistance of trial counsel, first to show/prove that Rivera was also shooting, and if the court found that the prosecutor committed misconduct (Tr.pg. 523-524), then Brown's trial attorney was ineffective for failing to get the court to force the prosecutor to correct that misconduct when the opportunity was presented, the court cannot reach the claims sufficiency without weighing whether or not the prosecutor committed misconduct first. Regardless if the courts were unable to find Brown's attorney ineffective, the evidence does not change. The fact still remains, that this evidence of Rivera shooting Brown twice and Duff once was still withheld by the prosecution and denied Brown a fundamental right to a fair trial based on "all" the material evidence. Being that the jury never heard this fact from the prosecution, is newly available evidence, and since this evidence has the potential of impacting the difference from getting 60 years for felony murder or 0 years for self-defense, regardless of rather or not they could find Brown's trial attorney was ineffective, the state still has a duty, an

obligation, to correct this evidence and order Brown a new trial, or at least, force the Indiana Court of Appeals to certify this factual evidence, so Brown is able to appeal fairly. Brown asserts his previous argument on his other claims.

**WETHER OR NOT THE DISTRICT COURTS REMEDY TO BROWN'S MOTION
TO DISMISS IN RESPONSE TO THE STATE DEFAULTING ON APPELLATE RULE
11 WAS PROPER UNDER THE EQUAL PROTECTION CLAUSE**

Brown asks this Court whether the District Courts remedy for Brown's Motion to Dismiss, for the clerk's failure to complete transcript within forty-five days after Brown's Motion to Compel was already filed, was proper?

The Court allowed Brown's appeal to be heard, we can reasonably assume that the Court agreed that Brown was not in default, and since he was not, was the Court's remedy for Brown's Motion to dismiss a correct one under equal protection of the law when, if it was Brown that defaulted, his appeal would have been dismissed with prejudice?

Brown understands that what he is asking this Court to do is not done on a regular basis, but in this instance, being that the Court obviously already agreed with Brown, Brown asks this Court to revisit his question presented to the District Court Judge and answer the question of whether or not the courts remedy was a correct one under equal protection of the law. Brown will show the Court the following to support:

[1] On December 12, 2016 trial court judge, Kurt Eisgruber, entered final judgment denying Brown post-conviction relief (App.G pg.191-205).

[2] On January 4, 2017 Brown filed his Notice of Appeal with the court (CCS).

[3] On February 1, 2017 clerk filed Notice of Completion of Clerk's record (CCS).

The transcript was not yet completed.

[4] On March 8, 2017 Brown filed motion to compel with the court (CCS).

[5] On March 23, 2017 the court issued Order compelling the State to produce the necessary transcripts Brown needed to appeal, the court issued an Order compelling the Court Reporter for the Lower Cause Number 49G01-0208-PC-211449 to complete and file the transcript with the Marion Circuit and Superior Courts clerk within fifteen (15) days of the Order (Brown v State cause # 49G01-0208-PC-211449) (CCS). The transcript was not completed.

[6] On May 25, 2017 Brown filed a second Motion to Compel with the court. (Brown v State cause # 49G01-0208-PC-211449) (CCS)

[7] On June 5, 2017 Brown also filed a Motion to find the court reporter in contempt and to set bond for all the unnecessary delays. (Brown v State cause # 49G01-0208-PC-211449)(CCS)

[8] On June 19, 2017, the court issued a second Order denying Brown bond and again compelling the Court Reporter to complete and file the transcript with the Marion Circuit and Superior Courts clerk within ten (10) days of that Order. The transcript was not completed. (App. I. pg.265-266)

[9] On July 14, 2017 Brown filed a pro se Motion to Dismiss pursuant to Appellate Rule 11 asking the court, under equal protection of the law, to dismiss the Appellee's appeal (Brown v State cause # 49G01-0208-PC-211449)(CCS).

[10] On July 28, 2017 the court issued Order granting Brown's Motion to Dismiss in part.

[11] In court's Order the court alleged that Brown in his Notice of Appeal requested the preparation of transcripts of the post-conviction hearings, but that he did not specifically identify

which hearings needed to be transcribed. And that because Brown was not specific in identifying said hearings, the court gave Brown thirty (30) days to serve Notice upon the Court Reporter stating specifically the dates of all post-conviction hearings that needed to be transcribed and gave the Court Reporter seventy-five (75) days to complete and file the post-conviction transcript with the Marion Circuit and Superior Courts Clerk. Within five (5) days of that date the Marion Circuit and Superior Courts Clerk was directed to: (1) file the Notice of Completion of Transcript with the Clerk of this court and to serve a copy of the Notice on the parties; And (2) provide Brown with a free copy of the transcript from cause number 49G01-0208-PC-211449 in accordance to Ind. Post-Conviction Rule 1(9) (b). (App. I. pg. 267-269).

[12] On August 1, 2017 Brown's Verified Motion for Extension of time within which to file appellate brief, in which Brown stated he was unable to complete brief, because he still had not received a complete copy of the transcript, was filed with the court (Brown v State cause # 49G01-0208-PC-211449).

[13] On August 2, 2017 the clerk filed Notice of Completion of Transcript with the court. (Brown v State cause # 49G01-0208-PC-211449)

[14] On August 3, 2017 the court issued an Order denying Brown's request to find the Court Reporter in contempt and to set bond as premature, explaining that Brown had to serve notice upon the Court Reporter stating the specific dates of all post-conviction hearings that needed to be transcribed for his appeal. The Court's Order further directed the Court Reporter to complete and file the requested transcript within seventy-five (75) days and Brown was to file his brief and appendix within thirty (30) days of the date the trial court clerk serves a "new" Notice of Completion of Transcript. As of the date (August 3, 2017) the "new" Notice of Completion of transcript had not been filed (Brown v State cause # 49G01-0208-PC-211449).

[15] On November 3, 2017, despite no “new” Notice of Completion of Transcript being filed, in compliance with the Court’s Order filed August 3, 2017, the court Ordered the dismissal of Brown’s appeal with prejudice and refused to reconsider that decision (App. I. pg.270).

[16] Appellate Rule 11(B) now gives the trial court clerk forty-five (45) days to serve Notice of Completion of Transcript and gives Brown seven (7) days to motion the court to compel if it does not happen. Brown compelled the court twice after the forty-five (45) days was up. The appellee was given fifteen (15) days the first Order and ten (10) days the second Order.

[17] The court refused to grant Brown bond and find the Court Reporter in contempt the second delay and, although they still gave the Appellee more time on the second Order, when the court granted Brown’s Motion to Dismiss, it’s remedy was to give the trial court clerk seventy-five (75) more days, almost double the time allotted in Appellate Rule 11 (B) and despite the fact that Brown was specific in his request for the relevant portions of the transcripts the he needed to appeal. (CCS)

[18] But for the Order filed August 3, 2017, Brown would have filed his brief. But because he was Ordered by the Court to wait on a “new” Notice of Completion of Transcript, Brown waited.

[20] The District Court in its Order, in response to Brown’s Motion to Dismiss in violation of Appellate Rule 11, did not dismiss the state’s appeal with prejudice showing that this is a clear example of unequal protection of the law.

[21] The court did allow Brown’s issues concerning his ineffective assistance of counsel claims to be heard, meaning that they did agree that Brown could not have been responsible for the default. And since it is clear that he was not responsible for the default, now the question is


reversed. The Court's response to Brown defaulting was to dismiss his appeal with prejudice. Now the question before the court is since the state defaulted, what is the proper remedy under equal protection of the law? To just allow Brown's appeal to be heard is not balancing under equal protection.

[22] Brown asked that the court reconsider his Motion to Dismiss and Order the dismissal of the state's appeal with prejudice and Order Brown's immediate release from prison.

CONCLUSION

WHEREFORE, based upon the forgoing points and authorities, the Petitioner respectfully request this Honorable Court to grant the within and reverse the judgement of the lower court and for all other relief deem necessary in the premise.

Dated: August 30th, 2021

Respectfully submitted,

Bryan K. Brown pro se

No. _____
IN THE
SUPREME COURT OF THE UNITED STATES

_____ Term, 20__

BRYAN H. BROWN

Petitioner

v.

HOWARD, Warden

Respondent

PROOF OF SERVICE

I, Bryan H. Brown, do swear or declare Pursuant to 28 U.S.C. § 1746, that on this date, August 30th, 2021, as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

I hereby verify under penalty of perjury that a copy of the above and foregoing WRIT OF CERTIORARI, has been served upon:

OFFICE OF THE ATTORNEY GENERAL OF INDIANA
Indiana Government Center South, 5th Floor
402 West Washington Street
Indianapolis, IN 46204

by personally handing the document to the appropriate prison official for placement into the institution's internal mailing system designed for legal mail on this 30th day of August, 2021.

[Signature] 941740

Petitioner's name DOC#
Indiana State Prison
One Park Row
Michigan City, IN 46360

APPENDIX A
UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA
USDC NORTHERN INDIANA (SOUTH BEND)
CIVIL DOCKET FOR CASE # 3:18-cv-00487-JD-MGG

Pages 1-4

APPEAL,HABEAS,PRIS E-FILE,SA-DM,TERMED

**U.S. District Court Northern District of Indiana [LIVE]
USDC Northern Indiana (South Bend)
CIVIL DOCKET FOR CASE #: 3:18-cv-00487-JD-MGG**

Brown v. Warden
Assigned to: Judge Jon E DeGuilio
Referred to: Magistrate Judge Michael G Gotsch, Sr
Case in other court: Marion County Superior Court,
49G01-0208-MR-211449
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 06/25/2018
Date Terminated: 06/04/2019
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Discovery Deadline:
Dispositive Motion Deadline:
Expert Discovery Deadline:

Settlement Conference:
Final Pretrial Conference:
Trial Date:

Petitioner

Bryan Keith Brown

represented by **Bryan Keith Brown**
941740
Indiana State Prison
One Park Row
Michigan City, IN 46360
219-874-7258
PRO SE

V.

Respondent

Warden
Indiana State Prison

represented by **Andrew A Kobe**
Indiana Attorney General's Office –
IAG/302
Indiana Government Center South
302 W Washington St 5th Fl
Indianapolis, IN 46204-2770
317-233-3349
Fax: 317-232-7979
Email: andrew.kobe@atg.in.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

James B Martin
Indiana Attorney General's Office –
IAG/302
Indiana Government Center South
302 W Washington St 5th Fl
Indianapolis, IN 46204-2770
317-232-6270
Fax: 317-232-7979
Email: james.martin@atg.in.gov

TERMINATED: 11/29/2018

Miscellaneous PartyINDIANA STATE PRISON E-FILE
(Court Use Only)represented by INDIANA STATE PRISON E-FILE
(Court Use Only)
INDIANA STATE PRISON (ISP)
e-mail notification purposes only
pursuant to Consent to Prisoner E-Service
Email: SPULawlibrary@idoc.IN.gov
PRO SE

| Date Filed | # | Page | Docket Text |
|------------|-----------|------|--|
| 06/25/2018 | <u>1</u> | | PETITION for Writ of Habeas Corpus (Filing fee \$ 5 paid, receipt # 3020221), filed by Bryan Keith Brown. (Returned copy with case number to Brown) (Attachments: # <u>1</u> Envelope)(nae) (Entered: 06/26/2018) |
| 06/25/2018 | <u>2</u> | | MOTION for Appointment of Counsel to Pursue Habeas Corpus Proceedings by Petitioner Bryan Keith Brown. (nae) (Entered: 06/26/2018) |
| 06/27/2018 | <u>3</u> | | ORDER TO SHOW CAUSE: The Warden is ORDERED to enter an appearance by 7/26/18 and file a response to the petition by 8/24/18. Signed by Magistrate Judge Michael G Gotsch, Sr on 6/27/18. (Copy mailed to pro se party and Warden). (nal) (Entered: 06/27/2018) |
| 06/29/2018 | <u>4</u> | | ORDER denying <u>2</u> Motion to Appoint Counsel. Signed by Magistrate Judge Michael G Gotsch, Sr on 6/29/18. (Copy mailed to pro se party). (nal) (Entered: 06/29/2018) |
| 07/03/2018 | <u>5</u> | | NOTICE of Appearance by James B Martin on behalf of Warden (Martin, James) (Entered: 07/03/2018) |
| 08/07/2018 | <u>6</u> | | MAGISTRATE JUDGE CONSENT FORMS sent to all parties (Standard Track). (Copy mailed to pro se party). Magistrate Consent forms due by 8/28/2018. (slm) (Entered: 08/07/2018) |
| 08/24/2018 | <u>7</u> | | RESPONSE TO ORDER TO SHOW CAUSE by Warden. (Attachments: # <u>1</u> Exhibit A: CCS, # <u>2</u> Exhibit B: DA Dkt, # <u>3</u> Exhibit C: DA Appellant, # <u>4</u> Exhibit D: DA Appellee, # <u>5</u> Exhibit E: DA Reply, # <u>6</u> Exhibit F: DA Opinion, # <u>7</u> Exhibit G: PCR findings, # <u>8</u> Exhibit H: PCR Hrng Trans, # <u>9</u> Exhibit I: PCR Dkt, # <u>10</u> Exhibit J: Motion, # <u>11</u> Exhibit K: Order July 28, # <u>12</u> Exhibit L: Order August 3, # <u>13</u> Exhibit M: Notice of Completion, # <u>14</u> Exhibit N: Order dismissing appeal, # <u>15</u> Exhibit O: Trans Pet, # <u>16</u> Exhibit P: PCR Order Denying Transfer)(Martin, James) (Entered: 08/24/2018) |
| 08/24/2018 | <u>8</u> | | Letter from Bryan Brown requesting status of Response filed by Respondent. (Docket sheet sent electronically to Brown) (nae) (Entered: 08/28/2018) |
| 08/24/2018 | <u>10</u> | | MOTION for Default Judgment as to by Petitioner Bryan Keith Brown titled as "Summary Default on Judgement" (nae) (Entered: 08/28/2018) |
| 08/28/2018 | <u>9</u> | | Copy of docket sheet requested by Bryan Brown. (nae) (Entered: 08/28/2018) |
| 08/28/2018 | <u>11</u> | | ORDER DENYING <u>10</u> Motion "Summary Default on Judgment ". Signed by |

| | | |
|------------|-----------|--|
| | | Judge Philip P Simon on 08/28/2018. (Copy mailed to pro se party)(sct) (Entered: 08/29/2018) |
| 09/11/2018 | <u>12</u> | MOTION for Enlargement of Time by Petitioner Bryan Keith Brown. (nae) (Entered: 09/11/2018) |
| 09/11/2018 | <u>13</u> | NOTICE OF MANUAL FILING of State Court Record by Warden (Martin, James) (Entered: 09/11/2018) |
| 09/11/2018 | <u>14</u> | ORDER granting <u>12</u> Motion for Extension of Time to File. The deadline for filing a traverse is ENLARGED to 10/5/18. Signed by Magistrate Judge Michael G Gotsch, Sr on 9/11/18. (Copy mailed to pro se party). (nal) (Entered: 09/12/2018) |
| 09/14/2018 | <u>15</u> | Traverse and Reply to State's Return to Order to Show Cause <u>3</u> filed by Bryan Keith Brown. (Attachments: # <u>1</u> Exhibits)(nae) (Entered: 09/17/2018) |
| 09/25/2018 | <u>16</u> | STATE COURT RECORD RECEIVED. Number of Volumes: 5; State Court Case No. 49A04-0311-CR-560. This record is maintained on paper in the court's files and is not available in electronic format. (jld) (Entered: 09/26/2018) |
| 10/05/2018 | <u>17</u> | NOTICE <u>16</u> State Court Record Received in the Hammond Division. (kjp) (Entered: 10/05/2018) |
| 11/27/2018 | <u>18</u> | NOTICE of Appearance by Andrew A Kobe on behalf of Warden (Kobe, Andrew) (Entered: 11/27/2018) |
| 11/28/2018 | <u>19</u> | MOTION to Withdraw as Attorney <i>James B. Martin</i> by Respondent Warden. (Kobe, Andrew) (Entered: 11/28/2018) |
| 11/29/2018 | <u>20</u> | ORDER granting <u>19</u> Motion to Withdraw as Attorney. Attorney James B Martin terminated. Approved by Magistrate Judge Michael G Gotsch, Sr on 11/29/18. (Copy mailed to pro se party)(slm) (Entered: 11/29/2018) |
| 01/15/2019 | <u>21</u> | Letter from Bryan Brown requesting docket sheet. (sent) (jld) (Entered: 01/16/2019) |
| 02/27/2019 | <u>22</u> | Letter from Bryan Brown requesting docket sheet (docket sheet sent) (nae) (Entered: 02/28/2019) |
| 03/13/2019 | <u>23</u> | Consent to Receipt of Documents Through Prisoner Electronic Filing Program by Bryan Keith Brown (Attachments: # <u>1</u> Envelope) (rmc) (Entered: 03/14/2019) |
| 04/04/2019 | <u>24</u> | NOTICE TO PARTIES AND LAWYERS signed by Judge Philip P Simon on 4/4/2019. (Consent form attached) (ksc) (Entered: 04/04/2019) |
| 05/13/2019 | <u>25</u> | ORDER REASSIGNING CASE. Case reassigned to Judge Jon E DeGuilio for all further proceedings. Judge Philip P Simon no longer assigned to case. Signed by Judge Philip P Simon on 5/13/19. (ksc) (Entered: 05/13/2019) |
| 05/30/2019 | <u>26</u> | Letter from Bryan Brown requesting docket sheet (Docket sheet sent electronically) (nae) (Entered: 05/30/2019) |
| 05/30/2019 | <u>27</u> | Docket sheet to be distributed to Bryan Keith Brown #941740 as requested in letter DE <u>26</u> . (nae) (Entered: 05/30/2019) |
| 06/04/2019 | <u>28</u> | 8 |

| | | | |
|------------|-----------|----|--|
| | | | OPINION AND ORDER DENYING <u>1</u> Petition for Writ of Habeas Corpus; DENYING a certificate of appealability pursuant to Section 2254 Habeas Corpus Rule 11; and DIRECTS the clerk to enter judgment in favor of the Respondent and against the Petitioner. Signed by Judge Jon E DeGuilio on 6/4/2019. (bas) (Entered: 06/04/2019) |
| 06/04/2019 | <u>29</u> | 29 | CLERK'S ENTRY OF JUDGMENT. (bas) (Entered: 06/04/2019) |
| 06/18/2019 | <u>30</u> | | MOTION Pursuant to Rule 59(e) Requesting the Court Alter or Amend its Judgment by Petitioner Bryan Keith Brown. (nae) (Entered: 06/21/2019) |
| 07/03/2019 | <u>31</u> | | OPINION AND ORDER The court DENIES the <u>30</u> motion to reconsider filed by Bryan Keith Brown. Signed by Judge Jon E DeGuilio on 7/3/19. (kjp) (Entered: 07/03/2019) |
| 08/28/2019 | <u>32</u> | | STATUS REPORT by Bryan Keith Brown. (rmf) (Entered: 08/29/2019) |
| 08/28/2019 | <u>34</u> | 5 | NOTICE OF APPEAL as to <u>28</u> Opinion and <u>29</u> Clerks Judgment by Bryan Keith Brown. (nal) (Entered: 09/11/2019) |
| 09/10/2019 | <u>33</u> | 30 | ORDER: The Court GRANTS the motion to extend ECF <u>32</u> , EXTENDS the deadline to file a notice of appeal to 9/3/19 and DIRECTS the clerk to separately docket this document ECF <u>32</u> as a Notice of Appeal. Signed by Judge Jon E DeGuilio on 9/10/19. (Copy mailed to pro se party). (nal) (Entered: 09/11/2019) |

APPENDIX B
CCS FOR CASE # 49G01-0208-PC-211449

CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

State of Indiana vs. Brown, Bryan

§
§
§
§

Location: Marion Superior Court,
Criminal Division 1
Judicial Officer: Eisgruber, Kurt
Filed on: 08/13/2002

CASE INFORMATION

Related Cases
49G01-0208-MR-211449 (Other)

Case Type: PC - Post Conviction Relief
Petition

Statistical Closures
10/03/2003 Jury Trial

Case
Status: 10/03/2003 Decided

Case Flags: Appeal Received

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number 49G01-0208-PC-211449
Court Marion Superior Court, Criminal Division 1
Date Assigned 08/13/2002
Judicial Officer Eisgruber, Kurt

PARTY INFORMATION

Defendant Brown, Bryan Keith
3534 FALLCREEK PWK
INDIANAPOLIS, IN 46205

Pro Se
3534 FALLCREEK PWK
INDIANAPOLIS, IN 46205

State Plaintiff State of Indiana

DATE

EVENTS & ORDERS OF THE COURT

INDEX

| | |
|------------|--|
| 08/11/2002 | Converted Event <i>PROBABLE CAUSE DETERMINATION 001 THE STATE HAVING PRESENTED A PROBABLE CAUSE AFFIDAVIT, THE COURT FINDS THAT THERE IS PROBABLE CAUSE TO HOLD THE DEFENDANT IN CUSTODY, DEFENDANT ORDERED HELD AND BOND SET PER THE BOND MATRIX.</i> |
| 08/12/2002 | Converted Event <i>OUTRIGHT SCREENING</i> |
| 08/12/2002 | Converted Event <i>OUT OF SESSION 001 PROBABLE CAUSE MINUTES 8/12/2002 002 Presiding Judge 003 Probable Cause Affidavit filed (H.I.). Probable cause found to hold Defendant and Initial Hearing scheduled. State files Motion to Continue Initial Hearing (H.I.).</i> |
| 08/13/2002 | QCSR INITIAL EVENT FOR CONVERTED CASES <i>QCSR INITIAL EVENT FOR CONVERTED CASES</i> |
| 08/13/2002 | Converted Event <i>INITIAL HEARING 000 Court Reporter: 42104 FELESA AVERITTE. 001 INITIAL HEARING MINUTES 8/13/2002 002 State of Indiana by RICHARD VEEN. 003 Defendant in person. 004 State having filed Motion to Continue Initial Hearing (H.I.), the Court grants the motion and ORDERS the Initial Hearing continued to 08/14/02 A. Court advises the Defendant pursuant to I.C. 35-33-7-5, 6.</i> |
| 08/13/2002 | Converted Event <i>CASE FILED</i> |



CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE No. 49G01-0208-PC-211449

| | |
|------------|---|
| 08/13/2002 | Converted Event <i>OUT OF SESSION 001 PROBABLE CAUSE MINUTES 8/13/2002 002 Presiding Judge 003 Information and Probable Cause Affidavit filed (H.I.). Probable cause found to hold Defendant, and Initial Hearing scheduled. 004 State files Motion for Appropriate Bond(H.I.). Court grants motion and ORDERS bond set in the amount of \$ 0 Type NB.</i> |
| 08/14/2002 | Converted Event <i>PRELIMINARY SCREENING</i> |
| 08/14/2002 | Converted Event <i>INITIAL HEARING 000 Court Reporter: 42104 FELESA AVERITTE. 001 INITIAL HEARING MINUTES 8/14/2002 002 Master Commissioner 003 State of Indiana by RICHARD VEEN. 004 Defendant in person. 005 Defendant found to be indigent; Public Defender STEVE POORE appointed. 006 Court advises the Defendant pursuant to I.C. 35-33-7-5, 6. Defendant or counsel provided with a copy of Information. A preliminary plea of NOT GUILTY is entered for the Defendant. Court now sets: Omnibus d 007 Court ORDERS Special Conditions of Release as follows: 008 No Contact: ERIC JOHNSON OR SONIA RIVERA.</i> |
| 08/19/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 8/19/2002 002 Presiding Judge 003 State on 08/19/02 files NOTICE OF DISCOVERY COMPLIANCE (H.I.).</i> |
| 08/27/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 8/27/2002 002 Presiding Judge 003 Public Defender STEVE POORE files appearance (H.I.). 004 Defendant on 08/27/02 files MOTION TO PRODUCE (H.I.). 005 Defendant on 08/27/02 files M-FOR DISC. OF INTENT TO OFFER (H.I.).</i> |
| 08/28/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 8/28/2002 002 Presiding Judge 003 Court grants motion. 004 PRETRIAL DISCLOSURE 005 Court grants motion. 006 PRODUCE EVIDENCE</i> |
| 08/28/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 8/28/2002 002 Presiding Judge 003 Court grants motion. 004 PRODUCE EVIDENCE 005 Court grants motion. 006 PRETRIAL DISCLOSURE</i> |
| 10/02/2002 | Converted Event <i>OMNIBUS DATE</i> |
| 10/02/2002 | Converted Event <i>PRE-TRIAL CONFERENCE 000 Court Reporter: 51659 JUDITH MONEY. 001 PRE-TRIAL CONFERENCE HEARING MINUTES 10/2/2002 002 State of Indiana by THOMAS WARREN FOR RICHARD VEEN. 003 Defendant in person and by counsel STEVE POORE. 004 CO-DEFENDANT REQUEST CONTINUANCE 005 DEFENDANT DOES OBJECT, TO CO-DEFENDANT 006 FOR CONTINANCE. 007 HPTC on 10/04/02 at A.</i> |
| 10/02/2002 | Converted Event <i>MINUTE CORRECTIONS 001 MINUTE CORRECTIONS for INITIAL HEARING on 08/14/02 at 08:30 002 Addition after Minute Sequence 008 follows: 003 DEF REQUESTS SPEEDY TRIAL.</i> |
| 10/03/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/3/2002 002 Presiding Judge 003 Defendant on 10/03/02 files NOTICE OF DEPOSITION (H.I.).</i> |
| 10/04/2002 | Converted Event <i>PRE-TRIAL CONFERENCE 000 Court Reporter: 51659 JUDITH MONEY. 001 PRE-TRIAL CONFERENCE HEARING MINUTES 10/4/2002 002 State of Indiana by R. VEEN. 003 Defendant in person and by counsel S. POORE. 004 Defendant requests continuance. 005 STATE DOES OBJECT 006 Court grants motion. 007 Court VACATED JURY TRIAL on</i> |



CASE SUMMARY

CASE No. 49G01-0208-PC-211449

10/07/02 at A. 008 HPTC on 10/16/02 at P. 009 HJRT on 10/21/02 at A. 010 Parties advised of dates in open court.

10/04/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/4/2002 002
 Presiding Judge 003 State on 10/04/02 files NOTICE OF DISCOVERY COMPLIANCE (H.I.).

10/08/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/8/2002 002
 Presiding Judge 003 State on 10/08/02 files LIST OF ADDITIONAL WITNESSES (H.I.).

10/15/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/15/2002 002
 Presiding Judge 003 State on 10/11/02 files SUP. NOTICE OF DISCOVERY COMPLI (H.I.).

10/15/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/15/2002 002
 Presiding Judge 003 State on 10/15/02 files LIST OF ADDITIONAL WITNESSES (H.I.).

10/16/2002 Converted Event
 PRE-TRIAL CONFERENCE 000 Court Reporter: 42104 FELESA AVERITTE. 001 PRE-TRIAL CONFERENCE HEARING MINUTES 10/16/2002 002 State of Indiana by TODD SALLEE. 003 Defendant in person and by counsel STEVE POORE. 004 Defendant ready for trial. 005 State ready for trial. 006 JURY WILL GO 10/21/02. 007 Parties advised of dates in open court.

10/17/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/17/2002 002
 Presiding Judge 003 State on 10/17/02 files SUP. NOTICE OF DISCOVERY COMPLI (H.I.).

10/18/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/18/2002 002
 Presiding Judge 003 State on 10/18/02 files SUP. NOTICE OF DISCOVERY COMPLI (H.I.).

10/21/2002 Converted Event
 JURY TRIAL 000 Court Reporter: 42104 FELESA AVERITTE. 001 JURY TRIAL MINUTES 10/21/2002 002 Matter comes on for Jury Trial. 003 State of Indiana by RICHARD VEEN. 004 Defendant in person and by counsel STEVE POORE. 005 Defendant ready for trial. 006 State ready for trial. 007 Matter continued due to congested Court Calendar. 008 HPTC on 12/04/02 at A. 009 HJRT on 12/09/02 at A.

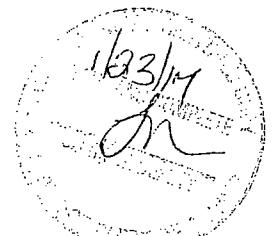
10/24/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/24/2002 002
 Presiding Judge 003 Defendant pro se on 10/24/02 files MOTION TO DISMISS (H.I.).

10/28/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/28/2002 002
 Presiding Judge 003 Court denies motion. 004 TO DISMISS.

10/31/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/31/2002 002
 Presiding Judge 003 Defendant on 10/31/02 files PET. FOR APPT. OF CONFLICT COUN (H.I.).

10/31/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/31/2002 002
 Presiding Judge 003 Defendant pro se on 10/31/02 files MOTION TO DISMISS (H.I.).

11/01/2002 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 11/1/2002 002
 Presiding Judge 003 State on 10/31/02 files THIRD-PARTY REQ. FOR PRODUCTION (H.I.).



CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

| | |
|------------|--|
| 11/01/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 11/1/2002 002</i> <i>Presiding Judge 003 CONFLICT HEARING on 12/04/02 at P. Into Court Room</i> |
| 11/01/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 11/1/2002 002</i> <i>Presiding Judge 003 Court denies motion. 004 TO DISMISS.</i> |
| 11/06/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 11/6/2002 002</i> <i>Presiding Judge 003 Defendant pro se on 11/06/02 files MOTION TO DISMISS (H.I.).</i> |
| 11/08/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 11/8/2002 002</i> <i>Presiding Judge 003 M-TO DISMISS on 12/04/02 at P. Into Court Room</i> |
| 11/22/2002 | Converted Event <i>OUT OF SESSION 001 MINUTE ENTRY 11/20/02 002 Presiding Judge 003 State on 11/20/02</i> <i>files NOTICE OF DISCOVERY COMPLIANCE (H.I.).</i> |
| 12/02/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/2/2002 002</i> <i>Presiding Judge 003 Court VACATED PRE-TRIAL CONFERENCE on 12/04/02 at A. 004</i> <i>HPTC on 12/04/02 at P.</i> |
| 12/03/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/3/2002 002</i> <i>Presiding Judge 003 Court VACATED PRE-TRIAL CONFERENCE on 12/04/02 at P.</i> |
| 12/03/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/3/2002 002</i> <i>Presiding Judge 003 Court VACATED PRE-TRIAL CONFERENCE on 12/04/02 at A.</i> |
| 12/04/2002 | Converted Event <i>HEARING OTHER 000 Court Reporter: 53557 PATTI MITCHELL. 001 PRE-TRIAL</i> <i>CONFERENCE HEARING MINUTES 12/4/2002 002 State of Indiana by RICHARD VEEN.</i> <i>003 Defendant in person and by counsel MARK KAMISH FOR STEVE POORE. 004 HPTC on</i> <i>12/06/02 at A.</i> |
| 12/06/2002 | Converted Event <i>PRE-TRIAL CONFERENCE 000 Court Reporter: 42104 FELESA AVERITTE. 001 PRE-</i> <i>TRIAL CONFERENCE HEARING MINUTES 12/6/2002 002 State of Indiana by RICHARD</i> <i>VEEN. 003 Defendant in person and by counsel STEVE POORE. 004 Defendant ready for</i> <i>trial. 005 State ready for trial. 006 COURT WILL APPOINT CONFLICT LAWYER FOR 007</i> <i>JOHNSON 008 JURY WILL GO 12/09/02 009 Defendant requests continuance. 010 Speedy</i> <i>trial waived. 011 STATE DOES NOT OBJECT. 012 Court grants motion. 013 HPTC on</i> <i>02/05/03 at P. 014 HJRT on 02/10/03 at A. 015 Court VACATED JURY TRIAL on 12/09/02 at</i> <i>A.</i> |
| 12/09/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/9/2002 002</i> <i>Presiding Judge 003 State on 12/06/02 files REQUEST TO GRANT USE IMMUNITY (H.I.).</i> |
| 12/09/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/9/2002 002</i> <i>Presiding Judge 003 Court grants motion. 004 TO IMMUNITY.</i> |
| 12/12/2002 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/12/2002 002</i> <i>Presiding Judge 003 State on 12/12/02 files SUP. NOTICE OF DISCOVERY COMPLI (H.I.).</i> <i>004 State on 12/12/02 files LIST OF ADDITIONAL WITNESSES (H.I.).</i> |
| 01/17/2003 | Converted Event |



CASE SUMMARY

CASE No. 49G01-0208-PC-211449

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 1/17/2003 002
Presiding Judge 003 Defendant on 01/17/03 files NOTICE OF DEPOSITION (H.I.).

02/05/2003

Converted Event

PRE-TRIAL CONFERENCE 000 Court Reporter: 51659 JUDITH MONEY. 001 PRE-TRIAL
CONFERENCE HEARING MINUTES 2/5/2003 002 State of Indiana by R. VEEN. 003
Defendant in person and by counsel S. POORE. 004 State requests continuance. 005
DEFENDANT DOSE NOT OBJECT 006 Court grants motion. 007 Court VACATED JURY
TRIAL on 02/10/03 at A. 008 HPTC on 04/09/03 at P. 009 HJRT on 04/14/03 at A. 010 Parties
advised of dates in open court. 011 MATTER IS FIRST CHOICE

02/25/2003

Converted Event

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/25/2003 002
Presiding Judge 003 State on 02/24/03 files SUP. NOTICE OF DISCOVERY COMPLI (H.I.).
004 State on 02/24/03 files SUP. NOTICE OF DISCOVERY COMPLI (H.I.).

03/27/2003

Converted Event

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 3/27/2003 002
Presiding Judge 003 State files Notice of Discovery Compliance (H.I.).

04/09/2003

Converted Event

PRE-TRIAL CONFERENCE 000 Court Reporter: 42104 FELESA AVERITTE. 001 PRE-
TRIAL CONFERENCE HEARING MINUTES 4/9/2003 002 State of Indiana by RICHARD
VEEN. 003 Defendant in person and by counsel STEVE POORE. 004 Defendant ready for
trial. 005 State ready for trial. 006 JURY WILL GO 4-14-03 AT A.M.

04/14/2003

Converted Event

JURY TRIAL 000 Court Reporter: 51659 JUDITH MONEY. 001 JURY TRIAL MINUTES
4/14/2003 002 Matter comes on for Jury Trial. 003 State of Indiana by R. VEEN. 004
Defendant in person and by counsel S. POORE. 005 DEFENDANT IN JAIL 006 Defendant
ready for trial. 007 State ready for trial. 008 Matter continued due to congested Court
Calendar. 009 HJRT on 05/27/03 at A.

05/07/2003

Converted Event

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 5/7/2003 002
Presiding Judge 003 State on 05/05/03 files STATE'S MOTION FOR CONTINUANCE (H.I.).

05/13/2003

Converted Event

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 5/13/2003 002
Presiding Judge 003 Court grants motion. 004 STATE'S MOTION FOR CONTINUANCE 005
HJRT on 07/21/03 at A. 006 Court VACATED JURY TRIAL on 05/27/03 at A.

06/25/2003

Converted Event

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 6/25/2003 002
Presiding Judge 003 State on 06/24/03 files MOTION TO CONTINUE JURY TRIAL (H.I.).

06/26/2003

Converted Event

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 6/26/2003 002
Presiding Judge 003 Court grants motion. 004 MOTION FOR CONTINUANCE 005 Court
VACATED JURY TRIAL on 07/21/03 at A. 006 HPTC on 09/03/03 at P. 007 HJRT on
09/08/03 at A.

09/03/2003

Converted Event

PRE-TRIAL CONFERENCE 000 Court Reporter: 51659 JUDITH MONEY. 001 PRE-TRIAL
CONFERENCE HEARING MINUTES 9/3/2003 002 Presiding Judge 003 State of Indiana by
R. VEEN. 004 Defendant in person and by counsel S. POORE. 005 Defendant ready for trial.
006 State ready for trial. 007 JURY WILL GO 9-8-03 AM. 008 Parties advised of dates in open
court.

09/08/2003

Converted Event

JURY TRIAL 000 Court Reporter: 42104 FELESA AVERITTE. 001 JURY TRIAL MINUTES
9/8/2003 002 Matter comes on for Jury Trial. 003 State of Indiana by R. VEEN. 004 Defendant
in person and by counsel S. POORE. 005 Defendant ready for trial. 006 State ready for trial.



CASE SUMMARY

CASE NO. 49G01-0208-PC-211449

007 COMES ON FOR HEARING ON STATE'S MOTION 008 IN LIMINE 009 Hearing held. 010 COURT DENIES MOTION IN LIMINE AS TO 011 PARAGRAPH 1 AND 2. 012 COURT WILL ALLOW DEFENSE TO QUESTION 013 ERIC JOHNSON CONCERNING COCAINE 014 COURT DENIES MOTION IN LIMINE 015 PARAGRAPH 3 AND 4. 016 COMES ON FOR HEARING ON DEFENDANT 017 EXCUM MOTION ON LIMINE 018 GRANTED 019 DEFENDANT BROWN REQUEST TO SERVER 020 COUNT 4. 021 STATE OBJECTS 022 COURT GRANTS 023 Defendant moves for separation of witnesses. 024 DEFENDANT BROWN 025 Separation granted, admonishment given, and witnesses separated. 026 Venire sworn and examined. Jury accepted by State and Defendant. 027 The following are sworn as the Jury in this cause: 028 1. EVAN MORRAY 029 2. JENNIFER SCHULZ 030 3. MATTHEW SPOUT 031 4. TERRY DOWNEY 032 5. MONICA PRIZEVOITS 033 6. DAVID HOWELL 034 7. KERRY MURRAY 035 8. JOANNE DINUCH 036 9. KIMBERLY GILL 037 10. TERRANCE JAMISON 038 11. JACQUELINE HARRIS 039 12. TRYPHENEA BOLDEN 040 Alternate Jurors: 041 1. KAREN GARRETT 042 Jury admonished upon each separation. 043 Jury excused. Hearing held outside the presence of Jury. 044 Preliminary instructions settled. 045 Jury returns. 046 Preliminary instructions given. 047 State makes opening statement. 048 Defendant makes opening statement. 049 Defendant waives opening statement. 050 State submits evidence. 051 Jury admonished upon each separation. 052 HJRT on 09/09/03 at A.

09/09/2003

Converted Event

JURY TRIAL 000 Court Reporter: 42104 FELESA AVERITTE. 001 JURY TRIAL MINUTES 9/9/2003 002 Matter comes on for Jury Trial. 003 State of Indiana by R. VEEN. 004 Defendant in person and by counsel S. POORE. 005 Jury excused. Hearing held outside the presence of Jury. 006 COURT ADDRESS DEFENDANT BROWN BEING 007 FINGERPRINTED 008 Court grants motion. 009 STATE'S MOTION TO FINGERPRINT THE 010 DEFENDANT 011 Jury returns. 012 State submits evidence. 013 State rests. 014 Jury admonished upon each separation. 015 Jury excused. Hearing held outside the presence of Jury. 016 Defendant moves for Judgment on Evidence. 017 AS TO COUNT 1 018 Court denies motion. 019 Jury returns. 020 Jury admonished upon each separation. 021 RECESS FOR LUNCH 022 Jury returns. 023 Defendant submits evidence. 024 Defendant rests. 025 Jury admonished upon each separation. 026 HJRT on 09/10/03 at A. 027 Jury excused. Hearing held outside the presence of Jury. 028 Final instructions settled. 029 State submits proposed final instructions numbered 1 THRU 3. 030 Defendant submits proposed final instructions numbered 1 THRU 3. 031 AS TO EXUM 032 Defendant submits proposed final instructions numbered 1 THRU 5. 033 AS TO BROWN

09/10/2003

Converted Event

JURY TRIAL 000 Court Reporter: 42104 FELESA AVERITTE. 001 JURY TRIAL MINUTES 9/10/2003 002 Matter comes on for Jury Trial. 003 State of Indiana by R. VEEN. 004 Defendant in person and by counsel S. POORE. 005 Jury excused. Hearing held outside the presence of Jury. 006 ATTORNEY BALDWIN MOTION FOR JUDGMENT 007 ON THE EVIDENCE ON COUNT 5 AND 6 008 STATE HAS MADE PRIME FACIA CASE STATE 009 MAY MOVE FORWARD ON COUNT 5 AND 6 AS 010 TO EXUM 011 State submits proposed final instructions numbered 6 AND 7. 012 Defendant submits proposed final instructions numbered 6 AND 7. 013 Final instructions settled. 014 Jury returns. 015 State makes closing argument. 016 Defendant makes closing argument. 017 State responds to Defendant's closing argument. 018 Jury Instructions given. Bailiff sworn. 019 QUESTION(S) FILED FROM JURY. RECORD 020 MADE. 021 Jury retired to deliberate and Jury returns VERDICT: 022 Count (001) G 023 Count (002) NG 024 Count (003) G 025 Count (005) G 026 Count (006) G 027 Count (007) G 028 Count (008) G 029 Jury polled at request of DEFENDANT. 030 Verdict forms examined. 031 Judgment of conviction entered on count(s) 1,3,5,6,7,8. 032 Court ORDERS Presentence Investigation report and sets cause for Sentencing 10/03/03 AM. 033 Jury admonished upon each separation. 034 STATE WISH TO PROCEED WITH COUNT 4 035 DEFENDANT WAIVES JURY ON COUNT 4 AND 036 STIPULATION MADE 037 Jury returns. 038 AS TO COUNT 4 POSSESSION OF A HANDGUN 039 BY SERIOUS VIOLENT FELON JURY EVIDENCE 040 INCORPORATED 041 State rests. 042 CLOSING ARGUMENTS MADE BY STATE 043 Count (004) G 044 STATE ORALLY DISMISS COUNT 10 045 State files Motion to Dismiss Count(s) 10 (H.I.). Motion granted. 046 Jury discharged.

09/10/2003

Converted Event

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 9/10/2003 002 Presiding Judge 003 Court ORDERS Defendant remanded to custody of Marion County Sheriff. 004 Court ORDERS bond to be set in the amount of \$ 0 Type NB. 005 DEFT WAS FOUND GUILTY BY JURY

09/11/2003

Converted Event

OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 9/11/2003 002



CASE SUMMARY

CASE NO. 49G01-0208-PC-211449

Presiding Judge 003 State on 09/09/03 files MOTION TO FINGERPRINT DEFENDANT (H.I.). 004 State on 09/09/03 files MOTION IN LIMINE (H.I.).

09/11/2003 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 9/11/2003 002
 Presiding Judge 003 PSI on 09/12/03 at A. Into Court Room

10/03/2003 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/3/2003 002
 Presiding Judge 003 CRT APPOINTING PAUPER APPEL. COUNSEL

10/03/2003 Converted Event
 SENTENCING 000 Court Reporter: 51659 JUDITH MONEY. 001 SENTENCING HEARING
 MINUTES 10/3/2003 002 Probation department files Presentence Investigation report (H.I.).
 Parties served. 003 State of Indiana by RICHARD VEEN. 004 Defendant in person and by
 counsel STEVE POORE. 005 PROBATION OFFICER: ROBYN SCHMALZ 006 Judgment of
 conviction entered on count(s) 1,3,4,5,6,7,8. 007 Court conducts Sentencing hearing and, after
 considering the Presentence Investigation report and all evidence presented, sentences the
 Defendant as follows: 008 As to Count 001, Sentence imposed 60 Y; Executed 21900 D;
 Suspended 0 Y. 009 As to Count 004, Sentence imposed 20 Y; Executed 7300 D; Suspended 0
 Y. 010 As to Count 005, Sentence imposed 8 Y; Executed 2920 D; Suspended 0 Y. 011 As to
 Count 006, Sentence imposed 8 Y; Executed 2920 D; Suspended 0 Y. 012 As to Count 008,
 Sentence imposed 365 D; Executed 365 D; Suspended 0 D. 013 All counts to run concurrently
 with one another. 014 Defendant found indigent and not liable for costs and not to be held for
 failure to pay fine. 015 Defendant ordered committed to Department of Correction and given
 420 days credit time. 016 Abstract of Judgment issued and filed (H.I.). 017 Criminal Court
 Commitment Order 018 End of Update Sentencing/Commitment 019 Sentencing comments:
 COURT ORDERS THE DEFENDANT TO BE A 020 Sentencing comments: DIRECT
 COMMITMENT TO THE DEPARTMENT OF 021 Sentencing comments: CORRECTIONS.
 COURT FINDS AGGRAVATING 022 Sentencing comments: THE DEFENDANT HAS A
 PRIOR CRIMINAL 023 Sentencing comments: HISTORY. COURT FINDS AGGRAVATING
 THE 024 Sentencing comments: DEFENDANT HAS ANOTHER PENDING CASE. 025
 Sentencing comments: COURT FINDS MITIGATING THE 026 Sentencing comments:
 DEFENDANT IS REMORSEFUL. COURT FINDS 027 Sentencing comments: THE
 AGGRAVATORS OUTWEIGH THE 028 Sentencing comments: MITIGATORS. 029 Court
 finds aggravating circumstances. 030 Court advises Defendant and Counsel of rights of
 appeal. 031 Court finds Defendant indigent for appeal purposes and refers matter to Marion
 County Pauper Appeals Panel. 032 Court VACATED HEARING OTHER on 09/12/03 at A.

10/03/2003 Converted Event
 CASE DISPOSED

10/03/2003 Converted Event
 FEE ASSESSMENT 001 \$ 100.00 SUPP PUB DEF SERVICE FEE assessed. Reason: LA

10/31/2003 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/31/2003 002
 Presiding Judge 003 Defendant on 10/31/03 files NOTICE OF APPEAL (H.I.).

12/09/2003 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/9/2003 002
 Presiding Judge 003 COURT REPORTER, JUDITH MONEY SANDERS, 004 FILES NOTICE
 OF DELIVERY TO PUBLIC 005 DEFENDER AGENCY

12/16/2003 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/16/2003 002
 Presiding Judge 003 NOTICE OF COMPLETION OF CLERKS 004 RECORD FILED AND
 PARTIES NOTIFIED.

02/12/2004 Converted Event
 OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/12/2004 002
 Presiding Judge 003 ON 2-11-04 COURT REPORTER FELESA 004 AVERITTE DELIVERS
 TRANSCRIPT OF JURY 005 TRIAL OF 9-8-03 9-9-03 AND 9-10-03 006 TO PAUPER
 APPELLATE DIVISION



CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE No. 49G01-0208-PC-211449

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| 02/13/2004 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/13/2004 002 Presiding Judge 003 CLERKS NOTICE OF COMPLETION OF 004 TRANSCRIPT FILED AND PARTIES NOTIFIED.</i> |
| 09/09/2005 | Converted Event <i>CASE TYPE CHANGED TO PC</i> |
| 09/12/2005 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 9/12/2005 002 Presiding Judge 003 COURT SIGNS AND ISSUE ORDER APPOINTING 004 STATE PUBLIC DEFENDER</i> |
| 06/19/2007 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 6/19/2007 002 Presiding Judge 003 COURT SIGNS AND ISSUE ORDER SETTING 004 HEARING ON PCR 005 HPCR on 08/28/07 at PM INTO COURT ROOM G01.</i> |
| 08/16/2007 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 8/16/2007 002 Presiding Judge 003 Court grants motion. 004 MTN TO CONT</i> |
| 08/21/2007 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 8/21/2007 002 Presiding Judge 003 TRANSPORT/RELEASE ORDER</i> |
| 08/28/2007 | Converted Event <i>POST CONVICTION RELIEF HEARING 000 Court Reporter: 42104 FELESA AVERITTE. 001 POST-CONVICTION RELIEF HEARING MINUTES 8/28/2007 002 Pro Tem 003 State of Indiana by C. CAMPBELL. 004 Defendant in person. 005 COURT CONT DEFTS PCR 006 PCR 10/21/08 2 PM</i> |
| 08/28/2007 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 8/28/2007 002 Presiding Judge 003 MARION COUNTY SHERIFF RETURN ORDER</i> |
| 12/07/2007 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/7/2007 002 Presiding Judge 003 COURT REPORTER</i> |
| 12/10/2007 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 12/10/2007 002 Presiding Judge 003 COURT GRANT PUBLIC DEFENDER REQUEST 004 FOR TRANSCRIPT 005 Copies sent to all parties.</i> |
| 02/12/2008 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/12/2008 002 Presiding Judge 003 Defendant on 02/12/08 files REQ-4 TRANSCRIPT OF INITIAL HEA (H.I.). 004 HELD AUGUST 14, 2002. 005 Defendant on 02/12/08 files REQ-4 TRANSCRIPT OF HEARING OCT (H.I.). 006 Defendant on 02/12/08 files REQ-4 TRANS OF HEARING HELD OCT (H.I.).</i> |
| 02/12/2008 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/12/2008 002 Presiding Judge 003 Defendant on 02/12/08 files REQ-4 TRANS OF HEARING HELD DEC (H.I.). 004 Defendant on 02/12/08 files REQ-4 TRANS OF HEARING HELD DEC (H.I.).</i> |
| 02/13/2008 | Converted Event <i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/13/2008 002 Presiding Judge 003 CRT REPORTER SERVED WITH 02/11/08 004 FILING FROM STATE PD OFFICE.</i> |



CASE SUMMARY

CASE No. 49G01-0208-PC-211449

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| 05/01/2008 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 5/1/2008 002</i></p> <p><i>Presiding Judge 003 HPCR on 10/21/08 at PM INTO COURT ROOM G01.</i></p> |
| 06/05/2008 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 6/5/2008 002</i></p> <p><i>Presiding Judge 003 ON 06/05/08 COURT REPORTER, FELESA 004 AVERITTE, COMPLETES AND DELIVERS 005 TRANSCRIPT OF THE 08/14/02, 10/04/02 006 AND 12/06/02 PRETRIAL CONFERENCE 007 TO STATE DEPUTY PUBLIC DEFENDER 008 ANNE-MARIE ALWARD PURSUANT TO REQUEST 009 TO DATED 12/07/07 AND 02/11/08.</i></p> |
| 06/06/2008 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 6/6/2008 002</i></p> <p><i>Presiding Judge 003 ON 03/03/08 COURT REPORTER, PATTI 004 MITCHELL, COMPLETES AND DELIVERS 005 TRANSCRIPT OF THE 12/04/02 PRETRIAL 006 CONFERENCE TO STATE DEPUTY PUBLIC 007 DEFENDER ANNE-MARIE ALWARD PURSUANT 008 TO REQUEST DATED 12/07/07 AND 02/11/08</i></p> |
| 07/16/2008 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 7/16/2008 002</i></p> <p><i>Presiding Judge 003 Defendant on 07/16/08 files W/D OF APPEARANCE AND CERTIFICA (H.I.).</i></p> |
| 07/17/2008 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 7/17/2008 002</i></p> <p><i>Presiding Judge 003 Court grants motion. 004 W/D OF APPEARANCE AND CERTIFICATION</i></p> |
| 10/14/2008 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/14/2008 002</i></p> <p><i>Presiding Judge 003 TRANSPORT/RELEASE ORDER</i></p> |
| 10/21/2008 | <p>Converted Event</p> <p><i>POST CONVICTION RELIEF HEARING 000 Court Reporter: 62744 BRIDGET KAUFMAN. 001 POST-CONVICTION RELIEF HEARING MINUTES 10/21/2008 002 Pro Tem 003 Petitioner in person pro-se. 004 State of Indiana by C.CAMPBELL. 005 Petitioner files Motion for Continuance(H.I.). 006 ORALLY 007 Court grants Motion for Continuance andsets trial for 01/27/09 PM.</i></p> |
| 10/21/2008 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/21/2008 002</i></p> <p><i>Master Commissioner 003 MARION COUNTY SHERIFF RETURN ORDER</i></p> |
| 01/16/2009 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 1/16/2009 002</i></p> <p><i>Presiding Judge 003 Attorney HILARY RICKS files appearance (H.I.). 004 Defendant on 01/16/09 files DEFENDANT'S MOTION FOR CONTINUA (H.I.). 005 Court takes motion under advisement.</i></p> |
| 01/17/2009 | <p>Converted Event</p> <p><i>MICROFILM ELIGIBLE PER ISCA RULE #7</i></p> |
| 01/21/2009 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 1/21/2009 002</i></p> <p><i>Presiding Judge 003 Court grants motion. 004 MOTION TO CONTINUE 005 Court VACATED POST CONVICTION RELIEF HEARING on 01/27/09 at . 006 HPCR 11/10/09 at PM INTO COURT ROOM G01. 007 ORDER FILED 008 Copies sent to all parties. 009 ALL PARTIES NOTIFIED</i></p> |
| 10/27/2009 | <p>Converted Event</p> <p><i>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/27/2009 002</i></p> <p><i>Presiding Judge 003 Defendant on 10/27/09 files DEFENDANT'S MOTION FOR CONTINUA</i></p> |



CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE No. 49G01-0208-PC-211449

(H.I.). 004 Court takes motion under advisement.

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| 10/27/2009 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/27/2009 002 Magistrate 003 RE: MOTION FOR CONTINUANCE 004 Court grants motion. 005 ORDER FILED 006 Copies sent to all parties. 007 Court VACATED POST CONVICTION RELIEF HEARING on 11/10/09 at . 008 HPCR 03/09/10 at PM INTO COURT ROOM G01. |
| 02/23/2010 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/23/2010 002 Presiding Judge 003 Defendant on 02/23/10 files DEFENDANT'S MOTION FOR CONTINUA (H.I.). 004 Court takes motion under advisement. |
| 02/25/2010 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/25/2010 002 Magistrate 003 Court grants motion. 004 DEFTS MTN TO CONTINUE FILED 2/23/10 005 Court VACATED POST CONVICTION RELIEF HEARING on 03/09/10 at . 006 HPCR 06/01/10 at PM INTO COURT ROOM G01. 007 ORDER FILED 008 Copies sent to all parties. |
| 05/19/2010 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 5/19/2010 002 Presiding Judge 003 Defendant on 05/19/10 files DEFENDANT'S MOTION FOR CONTINUA (H.I.). 004 Court takes motion under advisement. |
| 05/24/2010 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 5/24/2010 002 Magistrate 003 ON 5/21/10 004 RE: MTN TO CONTINUE 005 Court grants motion. 006 Court VACATED POST CONVICTION RELIEF HEARING on 06/01/10 at . 007 HPCR 04/19/11 at PM INTO COURT ROOM G01. 008 ORDER FILED 009 Copies sent to all parties. |
| 04/12/2011 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 4/12/2011 002 Presiding Judge 003 State on 04/12/11 files MTN TO CONTINUE PCR HEARING (H.I.). 004 Court takes motion under advisement. |
| 04/12/2011 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 4/12/2011 002 Magistrate 003 RE: MTN TO CONTINUE PCR HEARING 004 Court grants motion. 005 ORDER FILEDC 006 Copies sent to all parties. 007 Court VACATED POST CONVICTION RELIEF HEARING on 04/19/11 at . 008 HPCR 10/18/11 at PM INTO COURT ROOM G01. |
| 10/18/2011 | Converted Event POST CONVICTION RELIEF HEARING 000 Court Reporter: 35793 CARLA E VILLALTA. 001 POST-CONVICTION RELIEF HEARING MINUTES 10/18/2011 002 Magistrate 003 PETITIONER FILED PETITION FOR POST- 004 CONVICTION RELIEF ON 9/9/05 005 STATE FILED ANSWER TO PETITION FOR 006 POST-CONVICTION RELIEF ON 11/16/05 007 COUNSEL HILERY RICHK NOT APPEARING 008 State of Indiana by CLARKE CAMPBELL. 009 ATTORNEY'S ONLY HEARING 010 COURT RESETS MATTER TO ALLOW COUNSEL 011 TO ATTEND 012 HPCR 11/01/11 at PM INTO COURT ROOM G01. |
| 10/18/2011 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 10/18/2011 002 Magistrate 003 Court VACATED POST CONVICTION RELIEF HEARING on 11/01/11 at . 004 ATTY ONLY PCR HEARING on 11/01/11 at PM. Into Court Room G01 |
| 11/01/2011 | Converted Event HEARING OTHER 000 Court Reporter: 35793 CARLA E VILLALTA. 001 POST- CONVICTION RELIEF HEARING MINUTES 11/1/2011 002 Magistrate 003 PETITIONER FILED PETITION FOR POST- 004 CONVICTION RELIEF ON 9/9/05 005 STATE FILED ANSWER TO PETITION FOR 006 POST-CONVICTION RELIEF ON 11/16/05 007 HILARY RICKS IN PERSON FOR DEFT FOR 008 ATTYS ONLY CONFERENCE 009 State of Indiana by CLARKE CAMPBELL. 010 Defendant requests continuance. 011 Court grants motion. 012 |



CASE SUMMARY

CASE NO. 49G01-0208-PC-211449

ATTY ONLY on 12/20/11 at PM. Into Court Room G01 013 Parties advised of dates in open court.

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|------------|--|
| 12/20/2011 | <p>Converted Event</p> <p>HEARING OTHER 000 Court Reporter: 48721 JEANINE CURRANS. 001 POST-CONVICTION RELIEF HEARING MINUTES 12/20/2011 002 Magistrate 003 PETITIONER FILED PETITION FOR POST- 004 CONVICTION RELIEF ON 9/9/05 005 STATE FILED ANSWER TO PETITION FOR 006 POST-CONVICTION RELIEF ON 11/16/05 007 ATTORNEY'S ONLY HEARING 008 PETITIONER BY COUNSEL HILLARY RICKS 009 State of Indiana by CLARKE CAMPBELL. 010 COURT RESETS FOR STATUS HEARING 011 HPCR 03/13/12 at PM INTO COURT ROOM G01. 012 Parties advised of dates in open court.</p> |
| 03/13/2012 | <p>Converted Event</p> <p>POST CONVICTION RELIEF HEARING 000 Court Reporter: 35793 CARLA E VILLALTA. 001 POST-CONVICTION RELIEF HEARING MINUTES 3/13/2012 002 Magistrate 003 PETITIONER FILED PETITION FOR POST- 004 CONVICTION RELIEF ON 9/9/05 005 STATE FILED ANSWER TO PETITION FOR 006 POST-CONVICTION RELIEF ON 11/16/05 007 ATTORNEY'S ONLY HEARING 008 HILARY RICKS APPEARING 009 State of Indiana by CLARKE CAMPBELL. 010 Defense attorney moves to withdraw appearance. 011 Court grants motion. 012 COURT RESETS HEARING TO DETERMINE IF 013 PETITIONER WANTS TO PROCEED WITH 014 PCR PRO-SE 015 HPCR 11/20/12 at PM INTO COURT ROOM G01. 016 RETURN DEFENDANT/WITNESS ORDER</p> |
| 09/24/2012 | <p>Converted Event</p> <p>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 9/24/2012 002 Magistrate 003 Defendant pro se on 09/24/12 files REQ FOR ACCESS RELEVANT PROT RE (H.I.). 004 Court takes motion under advisement.</p> |
| 09/26/2012 | <p>Converted Event</p> <p>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 9/26/2012 002 Magistrate 003 RE: REQ FOR ACCESS TO RECORD 004 Court grants motion. 005 GRANTED IN PART DENIED IN PART 006 ORDER FILED 007 Copies sent to all parties. 008 COPY TO ATTY RICKS & TO COURT 009 REPORTERS</p> |
| 11/20/2012 | <p>Converted Event</p> <p>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 11/20/2012 002 Presiding Judge 003 Defendant pro se on 11/20/12 files DEFENDANT'S MOTION FOR CONTINUA (H.I.). 004 Court takes motion under advisement.</p> |
| 11/20/2012 | <p>Converted Event</p> <p>POST CONVICTION RELIEF HEARING 000 Court Reporter: 48721 JEANINE CURRANS. 001 POST-CONVICTION RELIEF HEARING MINUTES 11/20/2012 002 Magistrate 003 PETITIONER FILED PETITION FOR POST- 004 CONVICTION RELIEF ON 9/9/05 005 STATE FILED ANSWER TO PETITION FOR 006 POST-CONVICTION RELIEF ON 11/16/05 007 Petitioner in person pro-se. 008 State of Indiana by CLARKE CAMPBELL. 009 RE: DEFENSE MOTION FOR INDEFINITE 010 CONTINUANCE OF POST-CONVICTION HEARING 011 Court grants motion. 012 GRANTED IN PART, DENIED IN PART 013 HPCR 10/08/13 at PM INTO COURT ROOM G01. 014 Parties advised of dates in open court. 015 Petitioner ORDERED returned to the Department of Correction. 016 MARION COUNTY SHERIFF RETURN ORDER 017 RETURN DEFENDANT/WITNESS ORDER</p> |
| 06/07/2013 | <p>Converted Event</p> <p>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 6/7/2013 002 Presiding Judge 003 COURT RECEIVES DEFT'S WRITTEN STATEMNT 004 FORWARDED TO REPORTER: FELESA AVERITTE</p> |
| 06/10/2013 | <p>Converted Event</p> <p>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 6/10/2013 002 Presiding Judge 003 COURT REVIEWS DEFT'S WRITTEN STATEMENT</p> |
| 07/22/2013 | <p>Converted Event</p> <p>OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 7/22/2013 002 Magistrate 003 COURT REVIEWS DEFENDANT'S WRITTEN 004 STATEMENT 005 COURT GRANTS REQUEST 006 Court VACATED POST CONVICTION RELIEF HEARING on</p> |

1/23/17
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CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

10/08/13 at . 007 HPCR 04/29/14 at PM INTO COURT ROOM G01. 008 RETURN
DEFENDANT/WITNESS ORDER

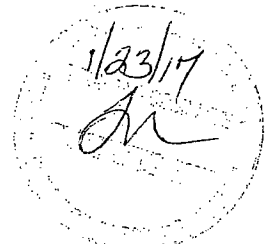
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| 01/18/2014 | Converted Event MICROFILM ELIGIBLE PER ISCA RULE #7 |
| 02/03/2014 | Converted Event OUT OF SESSION 001 OUT OF COURT FILING/RULING MINUTES 2/3/2014 002 Magistrate 003 Defendant pro se on 01/29/14 files DEFENDANT'S MOTION FOR CONTINUA (H.I.). 004 Court grants motion. 005 Court VACATED POST CONVICTION RELIEF HEARING on 04/29/14 at . 006 CANCEL PICKUP ORDER FAXED TO TRANSPORT 007 HPCR 01/20/15 at PM INTO COURT ROOM G01. 008 RETURN DEFENDANT/WITNESS ORDER |
| 06/30/2014 | Motion for Appointment Filed File Stamp: 06/30/2014 Filed By: Defendant Brown, Bryan Keith of counsel |
| 06/30/2014 | Petition Filed File Stamp: 06/30/2014 Filed By: Defendant Brown, Bryan Keith proposed PCR relief settlement |
| 07/03/2014 | Order Denying Petition for Post Conviction Relief (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 07/03/2014 |
| 07/07/2014 | Order Denying Motion for Appointment (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 07/07/2014 Order Denying Motion filed for: Appointment of counsel <Pauper Counsel> <Guardian Ad Litem> <CASA> <Custodial Evaluator> <Interpreter> <Psychological Evaluator> <Counselor> <Psychologist/Psychiatrist> <Domestic Relations Counseling Bureau> <Other>. |
| 08/26/2014 | Correspondence to/from Court Filed File Stamp: 08/26/2014 Court will take judicial notice of its own files. Copy sent to defendant |
| 08/29/2014 | Motion for Continuance Filed File Stamp: 08/29/2014 Filed By: Defendant Brown, Bryan Keith |
| 09/02/2014 | Administrative Event Motion to Continue Evidentiary Post Conviction Relief hearing remains under advisement and shall be addressed at 1-20-15 hearing |
| 01/20/2015 | Hearing on Petition for Post-Conviction Relief (2:00 PM) POST CONVICTION RELIEF HEARING Commenced and concluded |
| 01/20/2015 | Hearing Scheduling Activity Hearing on Petition for Post-Conviction Relief scheduled for 04/14/2015 at 2:00 PM. |
| 01/20/2015 | Hearing Journal Entry (Judicial Officer: Rubick, Steven J - MAG) Court Reporter: Carla Villalta |
| 01/20/2015 | Order Granting Motion for Continuance (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 01/20/2015 |
| 01/20/2015 | Transport Order Entered (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 01/20/2015 Party: Defendant Brown, Bryan Keith |



CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

To Indiana State Prison. DOC #941740

| | |
|------------|--|
| 01/20/2015 | Transport Order Entered (Judicial Officer: Eisgruber, Kurt) Order Signed: 01/20/2015 Party: Defendant Brown, Bryan Keith <i>From Indiana State Prison DOC #941740 on 4/13/15.</i> |
| 03/03/2015 | Correspondence to/from Court Filed File Stamp: 03/03/2015 <i>Reviewed by Court. Copy of case chronology sent to defendant.</i> |
| 03/04/2015 | Motion Filed File Stamp: 03/04/2015 Filed By: Defendant Brown, Bryan Keith <i>Motion for Leave to file Amended Petition for Post-Conviction Relief within sixty days of hearing</i> |
| 03/04/2015 | Petition for Post-Conviction Relief Filed File Stamp: 03/04/2015 Filed By: Defendant Brown, Bryan Keith <i>Amended</i> |
| 03/04/2015 | Administrative Event <i>Request for Issuance of Subpoena</i> |
| 03/04/2015 | Affidavit Filed File Date: 03/04/2015 <i>Affidavit in Support of Request for issuance of subpoena as to Steve Poore</i> |
| 03/04/2015 | Administrative Event <i>Request for Issuance of Subpoena</i> |
| 03/04/2015 | Affidavit Filed File Date: 03/04/2015 <i>Affidavit in Support of request for issuance of subpoena as to Kimberly Jackson</i> |
| 03/04/2015 | Administrative Event <i>Request for issuance of subpoena</i> |
| 03/04/2015 | Affidavit Filed File Date: 03/04/2015 <i>Affidavit in Support of request for issuance of subpoena as to Officer Meyer</i> |
| 03/04/2015 | Administrative Event <i>Request for issuance of subpoena</i> |
| 03/04/2015 | Affidavit Filed File Date: 03/04/2015 <i>Affidavit in support of request for issuance of subpoena as to David Brundage</i> |
| 03/04/2015 | Administrative Event <i>Request for issuance of Subpoena</i> |
| 03/04/2015 | Affidavit Filed File Date: 03/04/2015 <i>Affidavit in Support of Request for issuance of subpoena as to Eric Johnson</i> |
| 03/04/2015 | Administrative Event <i>Request for issuance of subpoena</i> |
| 03/04/2015 | Affidavit Filed |



CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

File Date: 03/04/2015
Affidavit in Support of Request for issuance of subpoena as to Sonia Rivera

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|---|--|
| 03/04/2015 | Administrative Event <i>Request for transmission of the original record from petitioner's direct appeal</i> |
| 03/05/2015 | Administrative Event <i>court mails to the Indiana Appellate Court a motion for removal of original court proceedings</i> |
| 03/05/2015 | Order Granting (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 03/05/2015 <i>order granting request for transmission of the original record from petitioner's direct appeal. see order.</i> |
| 03/05/2015 | Petition for Post-Conviction Relief Filed File Stamp: 03/05/2015 Filed By: Defendant Brown, Bryan Keith <i>amended</i> |
| 03/05/2015 | Order Granting (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 03/05/2015 <i>order granting motion for leave to file amended petition for post-conviction relief within 60 days of hearing</i> |
| 03/05/2015 | Order Denying (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 03/05/2015 <i>order denying request for issuance of subpoena as to sonia rivera</i> |
| 03/05/2015 | Order Denying (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 03/05/2015 <i>order denying request for issuance of subpoena as to eric johnson</i> |
| 03/05/2015 | Order Denying (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 03/05/2015 <i>order denying issuance of subpoena as to office j. meyer</i> |
| 03/05/2015 | Order Denying (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 03/05/2015 <i>order denying request for issuance of subpoena as to david brundage</i> |
| 03/05/2015 | Order Granting (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 03/05/2015 <i>order granting request for issuance of subpoena as to kimberly jackson</i> |
| 03/05/2015 | Order Granting (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 03/05/2015 <i>order granting request for issuance of subpoena as to steve poore</i> |
| 03/06/2015 | Service Issued <i>SUBP FOR STEVEN POORE</i> |
| 03/06/2015 | Service Issued <i>SUBP FOR KIMBERLY JACKSON</i> |
| 03/09/2015 | Service Returned Not Served <i>NF3, unable to serve Kimberly Jackson at PO Box 7399 N. Shadeland Ave #255 - 30198</i> |
| 03/09/2015 | Service Returned Served <i>Copy 3, left for Steven Poore at place of employment One N. Pennsylvania St Ste 700 - 30131</i> |
| Hearing on Petition for Post-Conviction Relief (2:00 PM) (Judicial Officer: Rubick, Steven J - | |







CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

| | |
|------------|---|
| 04/14/2015 | MAG) <i>Evidentiary</i> <i>Commenced and concluded</i> |
| 04/14/2015 | Hearing Scheduling Activity <i>Hearing on Petition for Post-Conviction Relief scheduled for 09/15/2015 at 2:00 PM.</i> |
| 04/14/2015 | Hearing Journal Entry (Judicial Officer: Rubick, Steven J - MAG) <i>Hearing is bifurcated. Witness Judge Poole advised of new hearing date.</i> |
| 04/14/2015 | Transport Order Entered (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 04/14/2015 Party: Defendant Brown, Bryan Keith <i>From Marion County Jail to Indiana State Prison DOC #941740</i> |
| 04/14/2015 | Transport Order Entered (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 04/14/2015 Party: Defendant Brown, Bryan Keith <i>From Indiana State Prison to Marion County Jail DOC #941740 on 9/11/15</i> |
| 09/15/2015 | Hearing on Petition for Post-Conviction Relief (2:00 PM) (Judicial Officer: Eisgruber, Kurt) <i>Commenced and concluded</i> <i>Parties Present: State Plaintiff State of Indiana</i> <i> Defendant Brown, Bryan Keith</i> |
| 09/15/2015 | Hearing Journal Entry (Judicial Officer: Rubick, Steven J - MAG) <i>state has 30 days to prepare proposed findings</i> |
| 09/15/2015 | Hearing Journal Entry (Judicial Officer: Rubick, Steven J - MAG) <i>court reporter has 30 days to prepare transcript once written order is recieved-oct.13</i> |
| 09/15/2015 | Transport Order Entered (Judicial Officer: Eisgruber, Kurt) Order Signed: 09/15/2015 Party: Defendant Brown, Bryan Keith |
| 10/28/2015 | Order Issued Order Signed: 10/28/2015 <i>Request for transcripts is granted. Copies to parties</i> |
| 11/17/2015 | Correspondence to/from Court Filed File Stamp: 11/17/2015 <i>reviewed by court, court mails deft copy of 10/28/15 order,</i> |
| 11/17/2015 | Administrative Event <i>deft's request for transcripts is moot</i> |
| 12/28/2015 | Correspondence to/from Court Filed File Stamp: 12/28/2015 <i>Received 12/28/15. To be reviewed</i> |
| 12/29/2015 | Correspondence to/from Court Filed File Stamp: 12/29/2015 <i>reviewed by court, forward copy of letter to court reporter, defendants submission deadline will be extended at his request</i> |
| 01/08/2016 | Motion for Enlargement of Time Filed File Stamp: 01/08/2016 Filed By: Defendant Brown, Bryan Keith |
| 01/13/2016 | Order Granting Motion for Enlargement of Time Order Signed: 01/13/2016 |




CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449


| | |
|------------|---|
| 01/13/2016 | Hearing Scheduling Activity <i>Hearing on Petition for Post-Conviction Relief scheduled for 05/10/2016 at 2:00 PM.</i> |
| 03/21/2016 | Correspondence to/from Court Filed File Stamp: 03/21/2016 <i>reviewed by court, forwarded to court reporter to get estimate for when transcripts may be completed, copies to parties</i> |
| 03/28/2016 | Motion for Enlargement of Time Filed File Stamp: 03/28/2016 Filed By: Defendant Brown, Bryan Keith |
| 04/04/2016 | Order Granting Order Signed: 04/04/2016 <i>motion for extension of time, copies to parties</i> |
| 04/04/2016 | Hearing Scheduling Activity <i>Hearing on Petition for Post-Conviction Relief originally scheduled on 05/10/2016 at 2:00 PM was rescheduled to 08/30/2016 at 2:00 PM. Reason: By Request.</i> |
| 04/04/2016 | Administrative Event <i>defense to submit proposed findings and conclusions by 07/29/16, state by 08/26/16</i> |
| 06/24/2016 |  Motion Filed File Stamp: 06/24/2016 Filed By: Defendant Brown, Bryan Keith <i>To compel transcript(s) of a court hearing</i> |
| 06/29/2016 | Administrative Event <i>motion to compel transcripts of a court hearing, motion taken under advisement forward to court reporter for response</i> |
| 08/02/2016 |  Proposed Findings of Fact and Conclusions Submitted: 08/02/2016 <i>of law granting post conviction relief</i> |
| 08/22/2016 |  Correspondence to/from Court Filed File Stamp: 08/22/2016 |
| 08/30/2016 | Attorney Conference (2:00 PM) (Judicial Officer: Rubick, Steven J - MAG) <i>PCR Paperwork due</i> <i>05/10/2016 Continued to 08/30/2016 - - Brown, Bryan Keith</i> <i>Commenced and concluded</i> |
| 08/30/2016 | Hearing Scheduling Activity <i>Attorney Conference scheduled for 10/11/2016 at 2:00 PM.</i> |
| 08/30/2016 | Motion for Continuance Filed File Stamp: 08/30/2016 Filed By: State Plaintiff State of Indiana |
| 08/30/2016 | Order Granting Motion for Continuance (Judicial Officer: Rubick, Steven J - MAG) Order Signed: 08/30/2016 |
| 08/30/2016 | Hearing Journal Entry (Judicial Officer: Rubick, Steven J - MAG) <i>9/30/16 paperwork due</i> |
| 09/19/2016 |  Correspondence to/from Court Filed |




CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

File Stamp: 09/19/2016
request copy of ccs

10/06/2016  Motion Filed
File Stamp: 10/06/2016
Filed By: Defendant Brown, Bryan Keith
(order not included) to strike the states affirmative defense in its filing of its untimely filing of its finding of facts and conclusion of law

10/06/2016  Motion Filed
File Stamp: 10/06/2016
Filed By: Defendant Brown, Bryan Keith
(order not included) verified motion to order the state deputy prosecuting attorney clarke campbell to mail a copy of its filed finding of facts and conclusion of law first class postage to petitioner

10/07/2016  Order Denying
Order Signed: 10/07/2016
motion to strike the state's affirmative defense in its filing of its untimely filing of its findings and facts and conclusion of law


10/11/2016 **Attorney Conference (2:00 PM) (Judicial Officer: Rubick, Steven J - PT)**
paperwork due
Commenced and concluded
Parties Present: State Plaintiff State of Indiana


10/11/2016 Hearing Scheduling Activity
Hearing on Petition for Post-Conviction Relief scheduled for 11/15/2016 at 2:00 PM.


10/11/2016 Motion for Enlargement of Time Filed
File Stamp: 10/11/2016
Filed By: State Plaintiff State of Indiana
Verbal

10/11/2016 Order Granting Motion for Enlargement of Time (Judicial Officer: Rubick, Steven J - PT)
Order Signed: 10/11/2016

10/11/2016 Hearing Journal Entry (Judicial Officer: Rubick, Steven J - PT)
This is a paperwork due hearing

10/17/2016  Correspondence to/from Court Filed
File Stamp: 10/17/2016

10/18/2016  Administrative Event
court reviews correspondence

10/18/2016  Correspondence to/from Court Filed
File Stamp: 10/18/2016
request CCS- to clerk

11/15/2016 **Hearing on Petition for Post-Conviction Relief (2:00 PM) (Judicial Officer: Rubick, Steven J - PT)**
Paperwork due
Commenced and concluded
Parties Present: State Plaintiff State of Indiana

11/15/2016 Hearing Scheduling Activity
Hearing on Petition for Post-Conviction Relief scheduled for 12/06/2016 at 2:00 PM.



CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

11/15/2016 Hearing Journal Entry (Judicial Officer: Rubick, Steven J - PT)
paperwork due hearing


11/16/2016 Automated Paper Notice Issued to Parties
Hearing Scheduling Activity ---- 11/15/2016 : Bryan Keith Brown

12/06/2016 **Hearing on Petition for Post-Conviction Relief (2:00 PM)** (Judicial Officer: Rubick, Steven J - MAG)
Commenced and concluded


12/06/2016 Hearing Scheduling Activity
Hearing on Petition for Post-Conviction Relief scheduled for 01/31/2017 at 2:00 PM.

12/06/2016 Hearing Journal Entry (Judicial Officer: Rubick, Steven J - MAG)
this is a paperwork due hearing

12/07/2016 Automated Paper Notice Issued to Parties
Hearing Scheduling Activity ---- 12/6/2016 : Bryan Keith Brown


12/12/2016  Correspondence to/from Court Filed
File Stamp: 12/12/2016
Clerk- defendant request copy of CCS


12/13/2016 Automated Paper Notice Issued to Parties
Correspondence to/from Court Filed ---- 12/12/2016 : Bryan Keith Brown


12/13/2016  Order Denying Petition for Post Conviction Relief
Order Signed: 12/13/2016

12/13/2016 Hearing Scheduling Activity
Hearing on Petition for Post-Conviction Relief scheduled for 01/31/2017 at 2:00 PM was cancelled. Reason: Other.


12/14/2016 Automated Paper Notice Issued to Parties
Order Denying Petition for Post Conviction Relief ---- 12/13/2016 : Bryan Keith Brown
Hearing Scheduling Activity ---- 12/13/2016 : Bryan Keith Brown


12/19/2016  Service Returned Not Served

12/20/2016  Motion Filed
File Stamp: 12/20/2016
Filed By: Defendant Brown, Bryan Keith
for court to consider additional evidence in support petitioners final facts and conclusion of law granting PCR

12/21/2016  Order Denying
Order Signed: 12/21/2016
Motion for court to consider additional evidence in support petitioners final facts and conclusions


12/22/2016 Automated Paper Notice Issued to Parties
Order Denying ---- 12/21/2016 : Bryan Keith Brown

12/27/2016  Service Returned Not Served

12/28/2016  Service Returned Not Served



CHRONOLOGICAL CASE SUMMARY
CASE SUMMARY
CASE NO. 49G01-0208-PC-211449

| | |
|------------|---|
| 01/04/2017 |  Service Returned Not Served |
| 01/05/2017 | Automated Paper Notice Issued to Parties <i>Service Returned Not Served ---- 1/4/2017 : Bryan Keith Brown</i> |
| 01/12/2017 | Notice of Appeal Received File Stamp: 01/04/2017 <i>1/11/17. FILED AT INDIANA COURT OF APPEALS 1/4/17, BY BRYAN BROWN, PRO SE.</i> |
| 01/31/2017 | CANCELED Hearing on Petition for Post-Conviction Relief (2:00 PM) (Judicial Officer: Eisgruber, Kurt) <i>Other</i> <i>Rulings Due</i> |



APEENDIX C
ORDER from THE UNITED STATES COURT OF APPEAL for the
SEVENTH CIRCUIT

Pages 24-28

Case: 19-2748 Document: 00713713332 Filed: 11/09/2020 Pages: 2 (2 of 3)

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF ISSUANCE OF MANDATE

November 9, 2020

To: Robert N. Trgovich
UNITED STATES DISTRICT COURT
Northern District of Indiana
South Bend, IN 46601-0000

941790
A4 449

| | |
|--|---|
| No. 19-2748 | BRYAN K. BROWN, Petitioner - Appellant v. RON NEAL, Respondent - Appellee |
| Originating Case Information: | |
| District Court No: 3:18-cv-00487-JD-MGG Northern District of Indiana, South Bend Division District Judge Jon E. DeGuilio | |

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS:

Entire record returned consisting
of

| |
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| |
|--|

Transcripts:

3 vol.

| |
|--|
| |
|--|

Case: 19-2748 Document: 00713713332 Filed: 11/09/2020 Pages: 2 (3 of 3)

Exhibits: 1 vol.



Other (specify items): 1 table of contents



NOTE TO COUNSEL:

If any physical and large documentary exhibits have been filed in the above-entitled cause, they are to be withdrawn ten (10) days from the date of this notice. Exhibits not withdrawn during this period will be disposed of.

Please acknowledge receipt of these documents on the enclosed copy of this notice.

Received above mandate and record, if any, from the Clerk, U.S. Court of Appeals for the Seventh Circuit.

Date:

Received by:

form name: c7_Mandate(form ID: 135)

Case: 19-2748 Document: 00713713331 Filed: 11/09/2020 Pages: 1 (1 of 3)

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted October 5, 2020

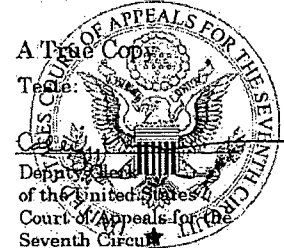
Decided October 16, 2020

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

CERTIFIED COPY



No. 19-2748

BRYAN K. BROWN,
Petitioner-Appellant,

Appeal from the United States District
Court for the Northern District of
Indiana, South Bend Division.

v.

No. 3:18-cv-00487-JD-MGG

RON NEAL,
Respondent-Appellee.

Jon E. DeGuilio,
Chief Judge.

ORDER

Bryan Brown has filed a notice of appeal from the denial of his petition under 28 U.S.C. § 2254 and an application for a certificate of appealability. We have reviewed the final order of the district court and the record on appeal and find no substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

Accordingly, Brown's request for a certificate of appealability and his motion to proceed in forma pauperis are denied.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF ISSUANCE OF MANDATE

November 9, 2020

- FILED -

To: Robert N. Trgovich
UNITED STATES DISTRICT COURT
Northern District of Indiana
South Bend , IN 46601-0000

NOV 13 2020

ROBERT N. TRGOVICH, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

| | |
|--|---|
| No. 19-2748 | BRYAN K. BROWN, Petitioner - Appellant v. RON NEAL, Respondent - Appellee |
| Originating Case Information: | |
| District Court No: 3:18-cv-00487-JD-MGG Northern District of Indiana, South Bend Division District Judge Jon E. DeGuilio | |

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS:

Entire record returned consisting
of

Transcripts:

3 vol.

Exhibits:

1 vol.



Other (specify items):

1 table of contents



NOTE TO COUNSEL:

If any physical and large documentary exhibits have been filed in the above-entitled cause, they are to be withdrawn ten (10) days from the date of this notice. Exhibits not withdrawn during this period will be disposed of.

Please acknowledge receipt of these documents on the enclosed copy of this notice.

Received above mandate and record, if any, from the Clerk, U.S. Court of Appeals for the Seventh Circuit.

Date:

Received by:

form name: c7_Mandate(form ID: 135)

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