IN THE SUPREME COURT OF THE UNITED STATES
AMERICA

GAVIN G. BROWN,
Petitioner,

v.

23-7257 ORIGINAL

RICKY DIXON, Secretary
Department Of Corrections,
ASHLEY MOODY, Attorney General,
STATE OF FLORIDA,
Respondent. /

APPLICATION NUMBER: 23A707

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES OF AMERICA SUPREME COURT

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

GAVIN G. Brown, *pro se Petitioner*
DC# C09545
FRANKLIN CORRECTIONAL INSTITUTION
1760 HIGHWAY 67 NORTH
CARRABELLE, FLORIDA 32322

I. CORPORATE DISCLOSURE STATEMENT

The Petitioner has no parent corporation and no publicly held company that owns 10% or more of it's own stock.

II. QUESTIONS PRESENTED

A) Whether the jury used unreasonable facts to prove a premeditated design. Where there was sufficient [provocation] to find Petitioner not guilty.

B) Defense counsel prejudice Defendant in not using a use of force expert to his defense.

C) Defense counsel prejudiced Defendant in not calling witnesses [Tony Khuu, Jamar West] who's relevant testimony would have supported Defendant's self-defense claim.

III. STATEMENT OF JURISDICTION

The District Court had jurisdiction pursuant to 28 U.S.C. § 2254. This Court has jurisdiction over an appeal from the United States Court of Appeal pursuant to 28 U.S.C. § 2253, and pursuant to U.S.C. § 1254 (1) of the United States Constitution to review.

The unreasonable determination was based upon an erroneous applicable of State and Federal law that will have a great effect on proper administration of justice.

IV. THE FACTS ON WHICH PETITIONER RELIES

The Eleventh Circuit Of Appeals has stated that case law rejects the notion that strategic decision can be reasonable when the attorney has failed to investigate his options and make a reasonable choice between them.

It is well established that a tactical or strategic decision is unreasonable if it is based on a failure to understand the law. (see Butler v. State, 84 So.3d 419, 421 (Fla. 5th DCA 2012)

The Petitioner Gavin G. Brown was charged with one count of First-Degree Murder recanting to the death of victim Jerry Smith. The incident occurred in a nightclub on June 30, 2014.

Petitioner Brown theory of defense was that Mr. Smith attacked him in the nightclub with a knife and Petitioner Brown acted in self-defense to Mr. Smith [provocation].

The jury found Petitioner Brown guilty as charged and the court sentenced Petitioner Brown to life imprisonment (R-22).

On Direct Appeal, the Fifth District Court Of Appeal affirmed the conviction and sentence. See Brown v. State, 216 So.3d 638 (Fla. 5th DCA 2016).

The Petitioner timely filed a motion for post-conviction relief pursuant to Fla. R. Crim. P. 3.850. in the motion Petitioner Brown raised three claims. 1) Defense counsel was ineffective by failing to retain a use of force expert as a

defense witness at trial. 2) Defense counsel was ineffective for failing to present particular witnesses at trial. 3) Cumulative error on October 29, 2019 a evidentiary hearing was held on Petitioner Brown's 3.850 motion. on December 10, 2019 the state court denied Petitioner Brown's 3.850 motion

On appeal the Fifth District Court Of Appeal affirmed the denial of Petitioner Brown's 3.850 motion.

STATE COURT EVIDENTIARY HEARING

TONY KHUU TESTIMONY: Mr Khuu testified that he hired [Jerry Smith] and [Timothy Duclos] too as [DJ's] for Keep Entertainment (R-437) Mr. Khuu stated that prior to the incident at the nightclub involving Petitioner Brown and Smith\Mr Khuu had suspended Mr. Smith and Mr. Duclos-[which meant that the two were not permitted to be in the nightclub]. Mr. Khuu stated that his suspension order was still in effect at the time of the incident involving Petitioner Brown (R-435- 436) Mr Khuu further testified that he was familiar with Petitioner Brown's reputation, and stated Mr. Brown had reputation for being pleasant (i.e, he was not known for violence or starting any fights. (R-436, 438)

JAMAR WEST TESTIMONY: Mr. West stated that he was familiar with Petitioner Brown's reputation in the nightclub community and also said Mr. Brown had a pleasant reputation and was not known to be violent and never had any problems with Petitioner Brown (R-443) Mr. West also was familiar with Jerry

Smith reputation and Mr Smith was known to be violent (R-443) Mr. West stated on a previous occasion he was "jumped" by Mr. Smith and his friends (R-443,444). Mr. West state that prior to Petitioner Brown trial, he was not contacted by Petitioner Browns attorney or anyone else associated with the defense. (R-451). However at trial counsel attempted to show and establish Mr. Smith had been suspended from the nightclub. the witness counsel questioned (Samuel Dade) said that he was not aware that Mr. Smith had been suspended (T-170). However Mr. Khuu testimony would have been important because it would have confirmed that Mr. Smith had been suspended and came to the club anyway to do harm to Petitioner Brown, which supports Mr. Brown self-defense and version.

The Petitioner request the Honorable court to take [Judicial Notice] of Dr. Bedard's prejudicial testimony pursuant to (Fed. R. Evid. R. 201 (C) (2) and the cumulative deviation from the essential elements to prove a [premeditated murder] design.

DR. ROY BEDARD TESTIMONY: Dr. Bedard, a former law enforcement officer with the Tallahassee Police Department, stated that he is a use of force consultant. (R-453). Dr. Bedard testified that he was previously a use of force and defensive tactic instructor for the State of Florida at the law enforcement academy. (R-453-454). Dr. Bedard stated that he has previously been qualified as a use of force expert in Florida Criminal Proceedings – most recently as an expert

for the prosecution in the trial of *State v. Drejka* in the Florida Sixth Judicial Circuit. (R-457).

Dr. Bedard testified that an average juror would not be familiar with use of force concepts (R-460-461). Dr. Bedard stated the following about his review of Petitioner Brown's case;

> That there was an assault. There was an attack. It seemed to be that Mr. Smith in this case brought the attack to Mr. Brown. I think that's what the evidence shows. The veracity of who had the knife, I think, still is an unanswered question; but if you can adopt Mr. Brown's version of events – I see no reason to not do that; there's no contrary evidence – that he was being attacked by a knife – wielding homicidal person, then it would be appropriate to respond with the use of deadly force.

(R-462-463). Dr. Bedard explained that Petitioner Brown did not expect Jerry Smith to be present in the nightclub on the night of the incident:

> I think Mr. Brown expected he would not be present. I think he was aware that there was what we would refer to in police work as a trespass warning, I think the club referred to as a suspension, but an order from management to not come back into the club. And I know Mr. Brown claimed he was aware of that. He had said that during his interview. So he had a reasonable expectation that when he was in the club, he was in what I'll call a safe area, after having just recently met Mr. Smith on the street outside.

(R-467). Dr. Bedard testified that the fact that there was security at the nightclub would not have prevented Mr. Smith from bringing a knife into the club:

> Well, I have quite a bit of experience in patting down and searching people, not only as a law enforcement officer, but also as a director of a club, nightclub security myself for 25 years. We do our best, regardless of how professionally mandated we are and how

> experienced we are in conducting searches, to find any contraband or find any type of weapon somebody might be secreting on their body. I will tell you that it is very common, not even just slightly uncommon, that weapons and contraband find their way into the most secure area. I know they find a way into prisons and jails and to hospitals, if we bring somebody to the hospital and certainly will find a way into nightclubs.

(R-468). Dr Bedard stated that he is aware of situations where both law enforcement officers and civilians have disarmed a bladed weapon without being cut or injured. (R-465, 488).

Dr. Bedard was asked about Petitioner Brown's interrogation, which was shortly after Petitioner Brown's altercation with Mr. Smith, and Dr. Bedard said the following about interviews that are conducted following use of force incidents:

> Q. [by defense counsel]. Okay. And so for law enforcement officers that are involved in a police shooting, is there a period of time before they're supposed to be interviewed?
>
> A. Yes. I think this has not always been the case; but I think that the research and empirical examination people who are involved in what we call critical incidents dictates that there are problems associated often times with memory when somebody is or declares that they have been defending themselves from, perhaps, death or great bodily harm. And because of this, the immediacy following the use of deadly force is often fragmented in their minds as to what actually happened.
>
> And we also know, probably more importantly, how vulnerable they are to creating false thoughts and false ideas about what did occur as they try to piece together what the literature refers to as snapshot imagery of the event as it was occurring, if you sort of juxtapose that with running video that most of us experience when we're not aroused to that degree.
>
> And so the standard for law enforcement officers and even some of the larger think groups like the IACP, the International

Association of Chiefs of Police, is that they recommend that there is a period of rest that is hard to define. It usually means that we give adequate time for the subject to sleep and to sort of reconstitute some of their memory, and the recommendation is typically between 24 and 72 hours.

Q. And so does that also apply to civilians that are in critical incidents?

A. It does. It's not a law enforcement peculiarity. It's a human function. It's something all people experience when the arousal level reaches a certain point. There is a reasonable expectation that someone who experience a near death experience will have trouble with memory, something we call critical incident amnesia.

(R-470-471). Dr. Bedard gave the following testimony about the feasibility of someone dropping a knife that was obtained by disarming the knife from an aggressor:

Q [by defense counsel]. So, Dr. Bedard, during the trial, the State brought up an issue concerning Mr. Brown obtained a knife and the appropriate response would be to drop the knife after disarming the other individual. What would be your testimony to assist the trier of fact as to that issue?

A. I would say that that is an irregular presumptive claim. I don't know any police officer, certainly not an expert in use of force and defensive tactics, that would expect a person to disarm themselves in the midst of an ongoing perceptually perceived deadly force incident.

Q. And why is that?

A. Well, for a lot of reasons. First of all, the biggest reason is, of course, that there are, as I mentioned to you previously, limited facts involved in what's actually happening; and the calculus of the person who's being attacked can't be sure of many things. They can be sure of some things. I think, according to Mr. Brown, he said that

he expected that perhaps this individual had another weapon.

This is actually more consistent with what police are taught. Police are often taught the plus one rule. If we find one weapon, we expect that there's another one.

I don't know Mr. Brown's training, but that is very consistent with an appropriate self-defense response.

The second thing is that Mr. Brown was mindful of the fact, probably at the moment that Mr. Smith walked in, that he came with an entourage. There were four people. He also said, which is not surprising to me, during the interview, he didn't know where they were. And this is very common when you see somebody whose arousal level gets very high. They tend to develop what's actually called tunnel vision. They tend to focus on a specific threat. That doesn't mean he wasn't mindful of the fact that there were others out there.

So for him to have disarmed himself, dropped the knife and made himself vulnerable after this really extraordinary moment of having taken the knife from somebody would not be something you would reasonably expect a person to do with or without training.

Q. In other words, he's still fighting for his life?

A. Yes. This was an ongoing event. I mean, I could imagine a situation in which, perhaps, the other individual backed off several seconds. Perhaps several minutes transpired; and then he stabbed him. I would have to probably change my opinion about whether or not this was self-defense, but this all happened in the course of several seconds. So it was almost like a loop and there was no pause when he recognized he was in deadly danger and his response to that deadly danger, which was the use of deadly force with this newly acquired weapon.

(R-474-476). Dr. Bedard then discussed the relevance of a piece of cut belt that was found in Mr. Smith's possession:

Q. [by defense counsel]. I notice in your report you also mentioned a piece of forensics that was found in Jerry Smith's pocket after the incident.

A. Yes.

Q. What was that?

A. It was actually a belt buckle and a piece of cut belt.

Q. Okay. Why would a piece of cut belt in the decedent's pocket be relevant in a bladed weapon circumstance?

A. I think for any use of force expert who's trying to get to the bottom of what exactly happened, if you are made aware that there is a piece of evidence that actually has a cut on it, the first thought that you would have is, perhaps, it was cut by that very same knife. The fact that it was in Mr. Smith's pocket would suggest that it was Mr. Smith that did indeed introduce the blade into the fight. So I was mindful of that, and I attempted to see if we could do some sort of forensic analysis to determine of the blade that cut through that belt that we found in his pocket was the same blade or could be determined to be the same blade that would match the wounds that were in Mr. Smith postmortem. And so my response to the attorney was to see if we could do an evidence review. I later found out that this buckle and belt that was listed in the property receipt simply doesn't exist anymore.

(R-476-477).

On cross-examination, Dr. Bedard was asked what he could provide to a jury that a common person would not already know, and he responded:

I think I touched on some of it. I think the concept of a forced continuum is not always apparent to, perhaps, a person who has never been in an authentic fight. There are people, I think, that, as a matter of predisposition, feel they could never kill anyone and so no one else should either.

There are some people that would be preemptive in their use of force rather than wait for an actual threat to occur. So there's a broad variance between the kind of people that might be sitting on a jury. So when we explain a force continuum, we talk about proportionality. We talk about escalating, deescalating levels of force. We speak a

little bit about appropriateness of force with respect to what a person perceives to be true. And so I think laymen don't understand that, again, without the benefit of ever having been in a situation similar to this.

I think when you're talking about what we call relative positioning and reactionary gap, these are very powerful, salient principles of self-defense. I mentioned something about reaction time previously. Reaction time factors into those, knowing that somebody is very close to you, that you don't have the ability oftentimes to calculate what's going on in the time it's going to take you to actually physically react. And so I think that's important for jurors to understand as well, with the close proximity of the threat to the defender is relevant to the decision making of the defender at the time that the decision is made.

(R-488-89). Dr. Bedard was also asked whether he thinks a use of force expert is necessary in every case involving the use of force, and he answered:

I think some cases are more apparent and obvious than others. For example, you could argue that an armed robbery is a use of force. I don't know that you need a use of force expert to go in there and explain why the armed robber did what he did.

This is not that case. This is a case where we have Mr. Brown, who I think is a respectable member of the community, ends up in a situation where he ends up taking a life on this particular night. It's curious why that happens.

I think usually you should err on the side of bringing an expert in to describe the facts and circumstances that surrounded an event like this. I don't think anybody thinks he's a cold blooded killer that showed up with the intent to kill anyone that night. So how do we ease that apart? We got to talk about the salient features of self-defense and all the things that I mentioned to you and more.

(R-490). Finally, Dr. Bedard was asked about Petitioner Brown's use of the word "rage" during his interrogation:

Q. [by the prosecutor]. What about the statement he made to the detective – it was kind of a Freudian slip – he said, I acted out of rage

and then corrected himself to, I acted out of self-defense?

> A. I don't know if it was a mistake. I think when you are defending your life, I think negatively balanced emotions are what motivate and drive you towards survival. That would be fear. That would be anger. That would be rage.
>
> As a matter of fact, when you are studying this biologically, when you're looking at other organisms, for example, we do a lot studies with cats, for example; and we try to divide violence into predatory violence and affective violence, meaning motivated by emotion. They typically call it rage when the cat is defending themselves. And we're actually able to elicit what we call sham rage to make them think they're being attacked.
>
> So probably it was a more true statement by Mr. Brown that he was in rage when he was looking at an individual who was drawing a knife on him. I think he probably corrected himself because he realized that that is somewhat of a loaded term for somebody who's not in the sciences and felt that he wanted to go with the word "defense" and sick with that. But I wasn't shocked when he used the term.

(R-494-495).

PETITIONER BROWN: Petitioner Brown stated that prior to trial, his attorney (James Smith) did not discuss with him the possibility of retaining a use of force expert. (R-500). Petitioner Brown testified that prior to his trial, he asked his attorney to investigate Tony Khuu and Jamar West as potential witnesses for trial. (R-501).

JAMES SMITH, III (HEREINAFTER "DEFENSE COUNSEL").[5] Defense counsel stated that prior to trial, Petitioner Brown told him the following about what occurred on the night of the incident in this case:

5 Because both the alleged victim and defense counsel have the last name "Smith," references to the attorney Smith in this brief will be made using the term "defense counsel."

> One evening Mr. Brown was at the nightclub in question. This individual came in. The individual tried to stab him, and he was able to take the knife from him and use it in self-defense.

(R-516). Defense counsel gave the following reasons for not retaining a use of force expert in this case:

> Two reasons: Number one, I didn't think it would be applicable. And, number two, I did not think that a use of force expert would be allowed to come in and testify the way in which it's asserted in the post-conviction motion. This is not the type of case where one would typically see, based upon my experience, a use of force expert.
>
> Usually, use of force experts, from what I've seen, what I've known, what I've heard, are in cases where you have a law enforcement official or someone who's empowered to use force and there's the allegation that they did so excessively or were not justified in the shooting or what have you.
>
> The other reason I didn't contemplate is because every case is unique. You have to look at the facts. Here, based upon the particular facts and circumstances, I didn't think that a use of force expert would be required, just frankly never came up because it wasn't something that I thought was at issue here.

(R-518-519). Defense counsel admitted that he never discussed the possibility of a use of force expert with Petitioner Brown:

> There was never discussion between the two of us about this at all. It never came up... This never came up because there was nothing about the facts of the case that led me to think that was something that was necessary.

(R-519-520).

Defense counsel stated that the most difficult aspect of Petitioner Brown's case was the police interrogation recording:

> [T]he interview with law enforcement there was a point where

> Mr. Brown said something which he quickly retracted, where he used the word "rage", as opposed to "self-defense" and there was an explanation given for how the knife was seen, obtained and used, which it was very difficult – it would be difficult in my opinion to sell the jury on that version of the story.

(R-520). Defense counsel testified that another difficult aspect of Petitioner Brown's case was that Petitioner Brown did not have any injuries or cuts on his hands:

> Mr. Brown said that he saw an individual coming towards him, quickly saw the knife, was able to retrieve it from him and then use it against him ans used it quickly and sort of instinctively. And what I recall from the interview is that there was a lot of questioning about that. In fact, I think it makes up the bulk of the interview; and the detectives repeatedly asked, how were you able to do that without getting any injuries on your hands? You had no cuts, scrapes or anything at all.

(R-520-521).

Regarding additional witnesses that could have been called at trial, defense counsel stated that he did not think it was important to establish at trial that Jerry Smith had been suspended from the nightclub at the time of the incident. (R-527). On cross-examination, defense counsel stated the following about the reactions of one of the jurors after Petitioner Brown's interrogation was played for the jury:

> The most damaging worst piece of evidence. Make sure I place it in context. When the interview was played and when there was testimony about it, I recall at least one particular juror turning and looking at us at defense table and turning his mouth in such a way as to say I'm done with this. So the interview, not good. .

(R-542-543). When asked why he did not present evidence regarding Petitioner

Brown's reputation for peacefulness and Mr. Smith's character trait of violence, defense counsel stated:

> I think there was evidence out there to support that. The concern that I had is, again, if you get into that inquiry, you open up the door potentially for things that could be harmful to Mr. Brown. Mr. Brown's character was not an issue in this case. The State had no way to be able to say anything at all about him being untruthful or violent. I explained that to him. If you open up that door, what's good for the person on the other side can end up being bad for you.

(R-542). Defense counsel conceded that he made a unilateral decision to not discuss the possibility of a use of force expert with Petitioner Brown. (R-543).

V. NATURE OF THE RELEIF SOUGHT

The Petitioner humbly request the United States Supreme Court to Grant review of an issue that will have a great effect on the proper administration of justice throughout the State that deviated away from the essential element's of law to prove a premeditated design. Which resulted in a miscarriage of justice requiring this Honorable Court review.

The Petitioner humbly requests this Honorable Court to Vacate, Set Aside and Remand for a New Trial do to an [clear error] of the State to prove a premeditated design. Where there was [sufficient provocation] to support Mr. Brown self-defense claim and attack upon him.

Respectfully Submitted,

Gavin G. Brown
DC# C09545

ARGUMENT

VI. INTRODUCTION TO THE CASE AT BAR

The prejudicial error is a denial of defendant's right to an affirmative defense to premeditated murder. A appeal may not be taken from a judgment of a trial court unless a prejudicial error is alleged and is property preserved would constitute fundamental error. (See 924.051 (3) F.S.A.)

A fundamental error has occurred in an unreasonable application of State and Federal Law to prove a [Premeditated Design].

The Supreme Court may review a State Court decision that was based on a unreasonable determination of the facts to prove a premeditated design in light of the evidence presented in State Court that deviated away from the essential elements of law. Requiring the Supreme Court Certiorari review of issue that will have a great effect on the proper administration of justice throughout the State.

VII. ARGUMENT

The Petitioner incorporates by reference his claims and arguments and merits on appeal and collateral review in this instant certiorari petition. The Petitioner further incorporate by reference his arguments and merits to his 3.850 post-conviction motion to this certiorari petition.

In Petitioner's 3.850 motion Petitioner alleged that defense counsel rendered ineffective assistance by failing to retain a use of force expert into his claim of self-

defense. As a result Petitioner Brown was denied his right to an available defense of self-defense and his right to effective assistance of counsel in violation of [Article I, Section 16 of the Florida Constitution.]

In Petitioner evidentiary hearing defense counsel made omissions of error despite being aware of the availability of a use of force expert in this case to prove Petitioner defended himself where the victim attacked Mr. Brown in a nightclub by the victim Jerry Smith with a knife.

In the order denying relief. The trial court seemingly agreed with defense counsel conclusion, which was a use of force expert was not "necessary" is directly refuted by record in this case, and counsel inaction prejudiced Defendant Brown.

DEVIATION OF ESSENTIAL ELEMENTS OF LAW

In this case the State did not meet their burden of proof to prove a premeditated design and did in fact rely on facts not consistent to prove premeditated murder. The facts relied on this case to prove premeditated murder:
A: The State did not present sufficient evidence of premeditation to support a conviction for first degree murder where:

1. The prior difference between Mr. Brown, and the Victim, did not establish premeditation.
2. A witness describing Brown looked angry before victim tried to use a weapon of a knife on Mr. Brown. Did not establish premeditation.

3. Mr. Brown did not stab the victim without [provocation] and the State did not prove that victim did not have a weapon.

B. The State's cited case law is distinguished and does not support premeditation in this case to be submitted to the jury, because it was sufficient [provocation] in this case that clearly disprove a premeditated design.

C. The State did not present sufficient evidence of a premeditated design to support a conviction for second degree murder do sufficient [provocation] present in this case.

D. The State did not meet it's burden of proving that Mr. Brown did not act in self-defense were victim attempted to use a knife against Mr. Brown in a nightclub. Where victim was not suppose to be, due to suspension's as a result of prior violence.

Notably during trial, defense counsel did not present any witness, nor any experts into Mr. Brown defense of self-defense. Which violates [exclusionary rule] and the [confrontation clause]

CONCLUSION

It is well established principal of law by the Eleventh Circuit Court of Appeals line of case law rejects the notion that "strategic decision" cannot be reasonable when an attorney has failed to investigate his options, and make a reasonable

choice between them. Whereas this Court stated in [Butcher v. State, 84 So.3d 419, 421 (Fla. 5th DCA 2012).

When these errors of fact are insufficient to prove and element of a crime, combined with counsel errors and constitutional procedures combined, constitutes a [cumulative] effect.

This in itself constitutes a fundamental error and a violation of due process and equal protection to the Sixth and Fourteenth Amendment. [See Haliburton v. State, 7 So.3d 601 (Fla. 4th DCA 2009) citing United States v. Frederick, 78 F.3d 1370. (C.A. 9Th 1996)] denied a fair impartial jury under the Sixth Amendment.

This case has resulted in a [miscarriage of justice] where the trial court deviated away from the essential elements of law to prove a element of First Degree Murder.

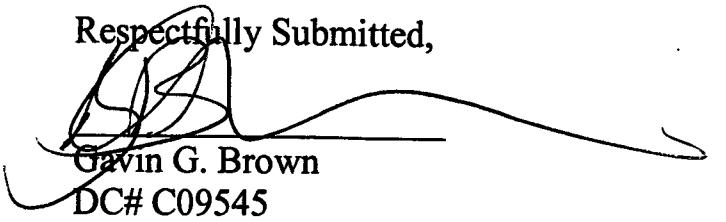
A District Court and Lower Court order is reviewable by Certiorari to the Supreme Court where the Lower Court order deviated away from the essential elements of law to prove premeditated murder that will have a great effect on the proper administration of justice throughout the State.

1) The trial court order departs from the essential requirements of law.
2) The evidence to prove premeditation of the primary offense, where [provocation] was present is a material injury and prejudice to the remainder of Petitioner case.

3) The jury was provided with insufficient evidence do to an unreasonable application of State and Federal law by [clear error].

WHEREFORE the Petitioner humbly move the Honorable District Court to Grant Certification to the Supreme Court as this deviation will have a great effect on the proper administration of justice throughout the State and Judiciary.

Respectfully Submitted,



Gavin G. Brown
DC# C09545

The Petitioner humbly request the District Court to [Certify this Petitioner to the Supreme Court] that will have a great effect on the proper administration of justice throughout the State in proving a [Premeditated Design] See Standard Jury Instructions 7.2.

The question of premeditation is a question of [fact] to be determined by the evidence. It will be sufficient proof of premeditation if the circumstances of the killing and conduct of the accused convince you beyond a reasonable doubt.

However if you have a reasonable doubt about whether the defendant acted with a premeditated design to kill because he acted in self-defense or heat of passion based on adequate [provocation] you should not find him guilty of First-Degree Premeditated Murder.

In the instant case there was and is adequate [provocation] by the victim for the defendant to defend himself that supports his actions of defense.

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the Writ of Certiorari complies with the 11th Circuit Rule 32-4, and Font requirements.

Respectfully Submitted,

Gavin G. Brown
DC# C09545

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the Petition for Writ of Certiorari and District Courts Order was provided to the following: 1) Clerk of Court of the United States Supreme Court, 1 First Street N.E., Washington D.C., 20543; and 2) The United States Attorney Generals Office, 950 Pennsylvania Avenue, N.W., Washington D.C., 20530, on this 28 day of FEBRUARY, 2024.

PROVIDED TO FRANKLIN ~~WORK CAMP~~ FOR MAILING ON 2/28/24
INMATE INITIALS

Respectfully Submitted,

Gavin G. Brown
DC# C09545
Franklin Correctional Institution
1760 Highway 67 North
Carrabelle, Florida 32322