

IN THE SUPREME COURT OF FLORIDA

AMOS L. KING
V.
STATE OF FLORIDA

CASE NO. 77-02115
& 77-0169

FILED
THOMAS D. HALL

JAN 14 2002

CLERK, SUPREME COURT

Death Warrant Pending
Execution Date January 24, 2002
Oral Arguments set for January 15, 2002

RESPONSE TO JANUARY 11, 2002
NELSON HEARING

On January 9, 2002 this court ordered the trial court to conduct a hearing in response to Defendant's Motion To Dismiss Pro State Attorneys, Appoint Replacements And for Stay Of Execution Or In The Alternative Dismiss Appeal.

1. From the beginning of the hearing the court was extremely hostile, baiting, constantly lecturing and not allowing completion of answers and assertions. Nevertheless, another hearing isn't sought. Defendant moves this court to overrule the trial

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court and appoint other counsels and allow the filing of a new collateral motion after investigation — if defendant's basis proves meritorious.

2. From the outset the trial court refused to acknowledge a contract between defendant and CCRC-M that included outside consultant Larry A. Hammond who was to assist, as defendant was told, with a state habeas corpus on actual innocence that was to continue into federal court if necessary. *Wyzykowski v. Dept. of Corrections*, 226 F. 3d 1213 (11th Cir. 2000) among other cases was discussed. It's clear to defendant CCRC-M spoke from lack of knowledge and experience of how to proceed.

3. The court had defendant so unsettled at times with its lectures and interruptions defendant never got in that the person who took defendant's pants part on long ago and he'd no one else to work with him on the matter. Contrary to the trial court time does matter or why else is the state distorting it. The counselor's two calls do begin a frame, at a point. *Touche*. The first of these calls is itself a fraud and smokescreen that has blinded many to many things out of wack. The M.E. put the time of death between 2:45

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and 3:45 A.M. The two fire experts estimated the starting of the fire at 3:00 to 3:30 and 3:15 to 3:30 A.M. Defendant has always disagreed with his arrival time back to the Center after work. At the hearing atty. Beck of CCRC-M told the court his office is investigating. What is being look at is a disturbance at roughly 3:00 AM on the other side of town Defendant has always claimed he witnessed that police apparently knew of. Proof that the Paring Knife is a fraud and the impossibility that Defendant couldn't have committed the murder means his convictions and death sentence do not stand on competent, substantial evidence.

4. At the hearing the Prosecution claimed it gave the Defense a copy of its investigative report on witness John Owens submitted as an exhibit by Defendant at the hearing as an omission of current counsel primarily. Had such a document been produced at or prior to trial it would've itself impeached Mr. Owen's integrity and called for the production of all other types and brands of Knives the victim owned.

5. If Defendant's memory serves him properly the court told him in an angry outburst

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that it had to release evidence after Defendant told the court CCRC-M rejected assistance by the Innocent Project on further DNA testing. It crossed Defendant's mind to inquire had the court ordered release of the evidence to the Governor and Prosecution for testing but seeing the court on edge Defendant stayed away. However, Defendant should be allowed equal access.

C. In the letter and spirit of *Graham v. State*, 372 So. 2d 1363 (1979) Judge Andrews appointed Baya Harrison initial collateral counsel in 1981 then being a racist and extremely bias denied proper investigation and preparation. Atty Harrison later had Judge Andrews excused for bias years later. CCRC-M has failed to interview witness whom Judge Andrews had thrown out of court in 1977 who witnessed both his and Prosecution's racism in court. These witnesses were mere spectators. Like with the former attorneys who could testify to Defendant's pursuit of DNA testing long ago one of these witnesses had been on standby. Not questioned. Former attorneys likewise have refused to move on this issue. It's Defendant's position that because due process

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had come into play requiring appointment of Mr. Harrison then if what defendant is saying is true then he either deserves a new \$3,850 or to pursue the first nunc pro tunc.

7. Contrary to the trial court's implications defendant has no fixation on Mrs. April Haughey nor desires his hand be constantly held by her or any other attorney. Defendant knew Mrs. Haughey needed a reprieve and was giving it till the troubling Huff Hearing transcript appeared. Defendant recognized this as part of the standard Nelson Hearing court-speak.

8. The trial court pounced on defendant for using the word "corrupt" to describe CCAC-M. As defendant told the court he'd once offered it evidence to this effect but it refused it nevertheless defendant acknowledges its application too broad to include everyone at CCAC-M based upon his personal knowledge and apologize to the court and others.

9. Some of the issues now mentioned weren't raised in the motion nor Nelson Hearing. Defendant told the court the motion wasn't conclusive. Defendant sent Mrs. Haughey to see a former friend who was charged with him

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in 1975 with larceny of a fire arm to inquire of their joint representation by trial counsel Cole and Cole's treacherous behavior. Mrs. Haughey got nowhere and according to the potential witness seemed inexperienced. Defendant called this witness just recently, described Mr. Cole and not only did he recall the circumstances to do with he and Defendant but that Mr. Cole had major problems with all his black clients. This information would've been instrumental to including a Nelson claim in the habeas petition now before the court Defendant was trying to persuade Mrs. Haughey to raise before she couldn't be reached for the mentioned period after the full hearing. Defendant also wanted to tell Mrs. Haughey that Cole's motion to withdraw along with Defendant's complaints triggered a Nelson Inquiry.

10. As pointed out in point 6 above the initial trial judge in 1981 through racism and bias essentially deprived Defendant of "due diligence" and right to "newly discovered" and suppressed evidence forever but a former inmate at the Center with Defendant, Terry A. Mobley, gave a deposition acknowledged a little helpful to

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Defendant by Mr. Harrison in 1984 though he never used it and refused to give a copy to Defendant. He claimed he passed it along with other files to CCRC who denied receiving it. Former CCRC-M attorney said he'd have Mr. Mobley sought out - he didn't. Current CCRC-M hasn't either. This matter is covered on pages 2, 3 and 4 and Exhibit 3 of Defendant's 1991 Bar Complaint against Atty. Harrison attached to his Moore motion sent up by the trial court. Like with much else Defendant's complaints are nearly aroid as the case and as persistent. Defendant calls upon this court to order production of this deposition. Other witnesses and inmates then at the Center in 1977 and one in the victim's community tried to be heard by Defendant's attorneys over the years only to be ignored.

11. Defendant unsuccessfully sought Brain Fingerprint via CCRC-M.

12. The Defendant tried to stick to relevant Nelson Hearing issues at court and thereby show this isn't a delaying tactic nor ^{to} waste time.

13. The trial court told Defendant then Assistant D.A. Paul Meisner would've eaten Defendant alive had he testified. The Defendant was cross

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Examined twice by Mr. Meissner in the past. Just prior to the last time Mr. Meissner brushed into the back of Defendant getting his attention then with humor complimented Defendant having become wise to some things to do with the case. Mr. Meissner has a brother-in-law on death row.

Therefore, Defendant prays this court grants the requested relief.

Finally, since Defendant began to disagree with CCRC-M the state is denying former legal phone calls to non-CCRC-M attorneys, folks with legal knowledge, just wanting to help or inform whom Defendant might gain insight and assistance from.

It was from some of these outside folks Defendant learnt of untended evidence CCRC-M didn't know of and other helpful information. Non-death sentenced prisoners don't have to put up with such restrictions. Calls are monitored. Even calls to CCRC-M are limited to 15 minutes. Defendant could talk to the Attorney General's office for an hour. He's also limited to two (2) social calls a week.

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Again, other inmates not under punishment aren't so restricted nor subjected to such policies. This restriction and interference is interfering with defendant's right to defend himself and access to court. One thirty-five minute call by an attorney could save six hours of driving time and three hours of writing to explain a pleading.

Therefore defendant ~~asks~~, prays this court order him the right to call outside attorneys, experts, informed persons without restrictions nor prior approval and at least one social call a day.

Certificate of Service

I hereby certify copy has been faxed to the following: John B. Jennings, CCRC-M, Fax 813-740-3544, (SC) 512-1000, Tampa, Fla.; Carol Dittmar, Assistant Attorney General, fax at 813-356-1292 (SC) 514-0876, Tampa, Fla.; The Honorable Swan F. Schaeffer - fax number unknown - someone fax her.

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"Under the penalties of perjury, I declare
that I have read the foregoing and the
facts stated in it are true" Section 92.525
(2000)

Amos T. King, Jr.
Signature

Executed on January 14, 2002