In The Circuit court, Fourth Judicial Circuit, In and For Duval County, Florida

STATE OF FLORIDA

V.

GERALD DELANE MURRAY

case no: 1992-CF-3708
Division: CR-A

DEFENDANTS PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS/ALTERNATIVEY MOTION FOR NEW TRIAL DUE TO NEWLY DISCOVERED EVIDENCE, MISTAKE/FRAUD UPON THE COURT AND DOUBLE JEOPARDY VIOLATIONS, WITH REQUEST FOR LEAVE TO AMEND AND AN EVIDENTIARY HEARING

comes now GERALD D. MURRAY, Pro-se and hereby Petitions this court For an extraordinary Habeas corpus alternatively motion for new trial Due to newly discovered evidence, mistake/Fraud on the court and Double Jeopardy violations violating the 5th, 6th, 8th and 14th Amendment to the U.S. constitution and corresponding provisions of the Florida Constitution. Florida rule civ. Proc § 1.630(d)(1); 3.580, Fla. R. crim Proc. 3.600(a) 2-3, (b) 5-8. mr. murray asserts that the August 2018 report constitutes new evidence, unavailable at the time of mr. murrays 2003 trial and, unavailable at the time of mr. murrays 2017 evidentiary hearing. Additional new evidence is the oct 27, 2022 Deposition of Dr. William Aderson (Defense expert) who reviewed the files of the states medical examiner Dr. Flora. Dr. Williams finding were that, only one (1) weapon was used in the murder of [redacted], not two as argued by the State in murrays four trials. Additionally, Dr. Williams found [NO] evidence forceful rape as alledged by the State and Dr. Flora. Had the NDE argued herein been presented to a Jury mr. murray Probably would have

received a different verdict. mr. murray further asserts that his trial, direct appeal, and Post conviction proceedings have been systemically subjected to false and misleading evidence to which the state knew, failed to correct and turned a blind eye. A Full consideration of this evidence will lead this court to conclude that the state has subjected mr. Murray to proceedings that are manifestly unconscionable, leading it to excise its discretion to set aside the Judgement of conviction and order a new trial.

A. RELEVANT LAW

1. mr. murray is entitled to Due process and leave to Amend should be granted where the records in this case amount to more than thirty boxes. The proceedings are exceedingly complex, involving as they do Four trials, numerous appeals to the Florida supreme court, documents from myraid state, federal and private entities. additionally, mr. murray [can not] Fully litigate the NDE (ABA report) until discovery has been obtained, experts have been consulted, discovery motions filed, motions to Depose and obtained the massive records mentioned in the ABA report which include: FBI memos, Audits, Protocols, etc.... To date, None of The documents referrenced in the ABA report have ever been turned over to counsel in Mr. murrays case and are critical in mr. murrays ability to litigate the NDE claim, as wellas, additional issues that may come to light. Leave to amend should be granted in this Factually intense case. Due process of The U.S. constitution demands such. Due to time constraints, murray himself cannot Fully argue these claims.

2. In order for a florida court to set aside a conviction based on newly discovered evidence, the evidence:

(1) must have been unknown by the trial court, by the party, or by counsel at the time of trial, and must appear that Defendant or his counsel could not have known of it by use of Diligence. Jone v. State 709 So.2d 512, 521 (Fl 1988); Jones v. State 591 So.2d 911, 915 (Fla. 1991) The trial court must "consider all newly discovered evidence which would be admissible" at trial before evaluating the "weight of both the newly discovered evidence and the evidence which was introduced at trial.

The second-prong analysis requires the court to consider "all the admissible evidence that could be introduced at a new trial". Swafford v State 125 So.3d 760, 775-76 (Fl 2013) (emphasis added); See also Kokal v. State, 901 So.2d 766, 776 (Fla. 2005). Indeed, "a trial court must even consider testimony that was previously excluded as procedurally barred or presented in another proceeding in determining if there is a probability of an acquittal" Id. at 776 (citing lightbourne v state 742 So.2d 238, 247 (Fla. 1999) "The trial court cannot consider each piece of evidence in a vacum, but must look at the total picture of all the evidence when making it decision") This "total picture" cumulative is akin to a Brady material analysis. Lightbourne, 742 So.2d at 247-48 (quoting Kyles v. Whitley 514 U.S. 419, 436 (1995) (materiality to be "considered collectly, not item by item) Jones II offers several factors for courts to consider: whether the evidence "goes to the merits of the case or whether it consitutes impeachment evidence"; is cummulative to other evidence in the case"; is material, and is internally consistent. Jones II 709 So.2d at 521

(2) mistake / Fraud upon the court - This court may also grant a new trial based on evidence that is not newly discovered but that, if left to stand, would amount to a miscarriage of justice." orders, Judgements or decrees which are the

product of Fraud, collusion, deceit, mistake, etc... may be vacated, modified, opened or otherwise acted upon at any time. This is an inherent power of courts of record, and one essential to insure the true administration of Justice and the orderly function of the Judicial process. State v. Burton 314 so.2d 136, 138 (Fl 1975). This power applies to both civil and criminal proceedings. Id at 137. This principle, which is inherent to the Due process clauses of the 5th and 14th Amendments to the U.S. const, is well-established in the precedents of both Florida and the united states supreme court. In Hazel-Atlas Glass co. v. Hartford-Empire co., The united states supreme court noted the long-standing exception to the rule of finality that is deeply rooted in common Law 322 US 238, 244-46 (1944)

(3) Brady / Giglio / Napue

Mr. Murray avers that the Fraud upon this court and the Florida supreme court largely arose from the states turning a blind eye toward false and/or misleading evidence and testimony throughout [ALL] phases of litigation in violation of The 5th Amendments Due process clause under Brady v. Maryland 373, U.S. 83 (1963); Giglio v. United states 405 US. 150 (1972) and Napue v. Illinois 360, U.S. 264 (1959)

B. Relavant Factual and Procedural Posture

Mr. Murray has consistently maintained his innocence of [redacted] murder throughout these Proceedings. In Mr. Murrays trials (as well as direct appeals to the Florida supreme court) The state has argued murrays guilt "claiming" the follow supported such; The State argued to Juries and courts that; ie evidence of Taylors guilt, aledged

confession to smith, Juanita white who sent her dog to attack murray, Two foot prints, Two weapons, murrays statements to law enforcement, FBI testimony hairs matched murray and consistent with coming from him, murrays escapee, murray comitted Theft of victims Jewerly, and murray leaving town the next day... The supreme court relied on the states arguements in denying murrays direct appeal.

A cumalative review of [ALL] new evidence, AND, evidence not introduced in murrays previous trials undermines the states case and list of "eight (8) facts" supporting guilt argued by the state and relied on by the courts.

on April 30, 2021 appointed counsel filed motion for New trial. That the motion (facts and issues) wasnt fully pled and, counsel had request leave to Amend that motion Due to murrays extensive records in the case etc... and requested time, to fully plead the issues, and also requested a hearing on said motion. The court erreoneously summary denied the motion and mr. murray was Denied Due process because of the courts erreoneous denial.

mr. murray hereby adopts all issues, arguements and caselaw to be reviewed in conjunction with this insufficiently pled motion, and request leave to amend this motion after Discovery. The intent of This motion is to stop New discovered Deadlines murray must operate under.

C. NEW EVIDENCE REGARDING HAIR MICROSCOPY

In 2017 Based on the 2012 review finding errors, the FBI sought a Third party to analyze the root and culture causes that likely contributed to reports and testimony errors occurring and not being abated by FBI management. (Rpt. p. 5) FN1.

The ABS review was different / seperate than the 2012 review and because of differences in the 2012 review and the ABS, the words and phrases listed [may not] have always been identified by the 2012 review as errors. (Rpt. p. 271) Trending was performed for the following 16 words / phrases. 1. completely indistinguisable 2. consistent with 3. exact 4. Face analogy 5. Indistinguisable 6. Individualization 7. match 8. Perfect match 9. Probability / statistics 10. Rare 11. same 12. scientific certainty 13. seldom 14. stronger / confident 15. unique 16. unusual.

The most important cause of report and testimony errors was that MHCA [DID NOT] have sufficiently specific guidance (i.e; instructions for MHCA reports and testimony that that enabled an MHCA examiner to consistently write reports and testify without error) (Rpt. p. 12)

management system weaknesses were driven by two cultural causes. The first involved Laboratory management not providing sufficient leadership in (1) identifying how often MHCA report and testimony errors were occurring (e.g. by formally establishing criteria for determining errors and monitoring against those criteria). (2) responding to instances of issues with MHCA testimony (including third-party input) and 3. Formalizing the methods used by the FBI Lab. The second cultural cause was [overconfidence] by Lab management in the belief that

FN1 mr. murray and currently appointed counsel discovered the above report in July / August 2023.

they did not need outside expertise (eg, legal, statistcal, and quality assurance) and did not see the value in formalized process and as a result, culture weaknesses, sufficiently specific guidance was not created. Hair and fiber leadership did not fully adopt the guidance communicated at the 1985 symposium nor did They fully formalize and document these standards for use by their MHCA examiners and reviewers.

Testimony errors occurred because MHCA examiners could not be sufficiently prepared in that they did not have sufficiently specific guidance. Therefore, it was not possible for the organization to provide appropriate training.

The lack of sufficiently specific guidance described was the most important causal event for report and testimony errors continuing for Decades. FBI management infrequently monitored live testimony or obtained transcripts of MHCA examiner testimony. When the first formal FBI Lab testimony monitoring program was put in place in 1995, it focused on items like examiner timeliness and attire. FBI trusted that MHCA examiners would testify within the limits of science, but they did not confirm this trust was warranted by monitoring MHCA examiners and using metrics to identify, track and analyze trends in the occurrence of errors. Rpt. p. 13-14, 79-81, 124

Prior to the OJ simpson trial MHCA examiners [could] state that, The hair [matched] the defendant. After the OJ simpson trial MHCA examiners were directed by hair and fiber unit management to [NOT USE MATCH] Rpt. p. 24, 93-94, 105, 118, 218.

In general, the MHCA examiners worked with technicians who did most of the evidence receiving and processing work, such as inventoring the evidence and scraping items to recover hairs Rpt. p. 58

The MHCA process during the period analyzed had five steps (shown in figure 6 p.59). Because report and testimony errors would only occur during the last two steps, potential errors/issues that could occur during the first three steps, evidence collection, Processing and comparison, were considered out of scope. However, there are activities that occur during the first three steps that [could have] had an impact on MHCA reports and testimony. Rpt. p59.

If MHCA examiners determined that questioned hair exhibited both "similarities" and differences to the known hair sample, no conclusion could have been made and [often] was described as "similarities".... Rpt. p.60

In 1997 FBI changed policy based on OIG (1997) investigation and in an effort to achieve ASCLAD/Lab accreditation Rpt. p.61

Internal memo to FBI Lab director Hicks Dec 1997 stated that "the Pitfalls of overstating results were discussed with MHCA examiners" Rpt. p.67

ABA concluded that, Prosecutors would present the examiner with a statement that exceeded the limits of science and ask the examiner to confirm the statement Rpt. p. 68

ASCLD/Lab requires Lab to monitor examiner testimony and is essential criterion..... Rpt. p.69

Quality assurance was created in 1995 to coordinate FBI efforts to achieve ASCLAD/LAB accreditation. many process needed to be formally put in place to achive accreditiation and would impact units across the entire Lab. First formal written policies were developed starting in 1995 while working to achieve accreditation and were revised several times in the late 1990s. Rpt. p. 78-79

Testimony exceeding limits of science and was wide spread and involved [ALL] analyst. All words/phrases searched for "match", "SAME" Rpt. p. 93-94, 97-100, 115-117, 218

Examiner said they felt tricked into giving statements stronger than they wanted to provide, analogy [SAME] Rpt. p. 118-120

Transcripts were not routinely obtained by FBI when they became available. Transcripts would be obtained where examiner might testify again. In general transcripts were expensive and this expense was avoided if there was no anticipated need for the transcript. Rpt. p. 122

Records/External feedback. MCHA mentioned during interviews that records from external parties providing [Postive] feed back were typically sent to FBI unit chief and filed in individuals personell record. Records from external parties providing [Negative] feedback filed in personael record for up to a year until the individuals annual evaluation was compleat. Rpt. p 122

Testimony in court [Does not] validate the process or fact court admitted evidence. FBI had no written procedures in the hair and fiber unit and late 90's started quality assurance to facilitate standardization across FBI to accelerate the progress to obtain ASCLAD/Lab accreditation, first protocol dated 1997 and accredited in 1998. Rpt. p. 127-129

Hands on experiance - Trainee examiners worked on cases under the supervision of qualified examiners, qualified examiner would do all the comparison work, the trainee typically performed an assesment of the same evidence to determine if their findings were the same as the qualified examiner

Proficiency Test - Based on interviews, transcripts, multiple Proficiency test were part of training, most focused microscopic work of examiner. Final testing often included matching [50] questioned hairs to associated known hairs. During most test, MHCA examiner knew that the [50] questioned hairs matched to one and only one of the known hairs. MHCA examiner had to pass three moot courts during training. Rpt. p. 129

Rewards and Incentives - Based on interviews, the Primary incentive for MHCA examiners was related to Productivity, measured by the number of cases that the examiner processed. Productivity also appears to be the metric that was tracked..... if examiner analysis resulted in [exclusion], it was much less likely to involve court testimony, which would reduce their productivity. some interviewees were told they received an annual bonus that was for processing the most cases in the unit that year. examiner indicated when receiving bonus one year, he was told that the bonus was for traveling a lot for testimony. as one examiner said during interview, "we could get an incentive bonus for being on the road". The report also found that the FBI had [abandon] DNA confirmation. Rpt. p. 131-132.

Based on interviews - hair and fiber unit management gave the MHCA examiners freedom to excute their work independantly. management believed that once trained, could perform with little oversight..... this was most pronounced in court appearances where supervison did not know what examiners actually stated during testimony. Rpt. p. 134

valued status-qua - examiner indicated that they were not encouraged to identify issues with existing hair and fiber practices unless it helped efficiency of

case processing. MHCA examiner made suggestion for improving the training program he had just compleated and was subsequently reprimanded for questioning the validity of the program. Rpt. p.134

Documentation makes you vulnerable - Documentation of work process for examiners activities were weak. The [culture] was to [avoid] documenting activities..... Limited documentation of examiners was viewed as an approach for "Limiting Risk". Rpt. p. 138

Examiners felt set-up. - interviewees commented that it was unfair to apply standards of 2012 review to the period analyzed. They indicated had they known what the limits were They would have written reports and testified within those bounds. The ABA found that; its our understanding that the bounds of the science for MHCA [have not] changed since the conception, and, Therefore, the limits applied by the 2012 review would be appropriate for the period analyzed. Rpt. p.163

FBI personnel. MHCA examiners felt that those who were knowledgeable in legal issues (e.g. FBI office of the general counsel) were not needed and would not be helpful. Rpt. p. 165

Disincentive to document MHCA testimony limits - There was disincentive for the organization and MHCA examiners to document sufficient report and testimony guidance because it would bring increased scrunity from third parties, which the FBI viewed as a [negative], also potential impact on past work....Rpt. p.166

Former MHCA examiners not kept up to date - examiners who retired or left the organization did not receive ongoing communication on the current standards for testifying about work performed for the unit. They were sometimes called to testify months or years after they had left the hair

and fiber unit. Rpt. p. 168

Perfect match - 1991 memo indicated MHCA examiners should not use phrases like Perfect match or refer to their personnel experiance to imply a probability that the questioned hair came from particular individual Rpt. p168.

continuing training on testifying was unstructed or absent. even if existed, unlikely that continuing training would have been effective in communicating the guidance to all examiners. Rpt. p. 170.

Returning to testify - MHCA examiners that had retired or taken positions somewhere else in the FBI testified without receiving latest guidance or clarifications. In addition, long periods without testifying could result in lack of Proficiency testing. There were no requirement to update examiners. Rpt. p. 171

FBI Lab often referred to an association between the known and questioned sample as a [match]. There was no guidance specifically prohibiting the use of that Terminology, so [match] was often used.

Data refutes conclusion - 1991 memo [Did] provide guidance and, During OJ simpson case, Trial Judge ruled "match" could not be used. Following trial in 1995 MHCA examiners were directed to [STOP] using term "match". Rpt. p. 176

Errors continued after the OIG 1996 report. some of the recommendations identified by the OIG should have impacted [ALL] of the FBI Lab units, including the hair and fiber unit [and] impacted the testimony of MHCA examiners. Rpt. p. 200

For example, use of term "Perfect match" that term was prohibited but [NO] observed follow-up to identify the criteria needed for exclusion of some phrases. Following OIG report testimony of other hair and fiber examiners was

not reviewed, even though significant issues were found with a hair and fiber examiner testimony. Rpt. p.201
most importantly - each examiner had their own interpretation of the limits of science, with No clear boundaries. Rpt. p.222
major causes that drove primary root causes were; (1) Lack of leadership by the FBI Lab mangement; (2) over cofidence and; (3) insufficient performance monitoring by FBI Lab mangement. Rpt. p.223-225, 227-237, 271-290
That agent Dizinnos Reports, notes and Trial testimony [ALL] used The Terms "SAME" and "match". That the state in arguements to the courts, mr. Murrays Juries utlized these same words/phrases when argueing why the Jury should convict. Additionally, This same language was used in briefing to the Florida supreme court in multiple Appeals. mr. murray has requested counsel to search the Transcripts and brief citing where/when these Terms were used, as well as, supreme court opinions utilizing These same phrases.

ARGUEMENT

The new evidence (ABA report) entitles mr. murray the rights under the 5th, 6th and 14th Amendment of The U.S. constitution to Fully investigate and litigate These claims.
That the evidence establishes the extent the FBI was willing to go to protect its agents and Their exams. That Agent Dizinno concealed Brady/Giglio evidence which will be plead seperately herein. concealing such allowed Agent Dizinno to mislead the courts for years (4 Trials) and the state seized on Dizinno's concealment and misleading testimony to deprive Mr. murray fair trials and appeals.
The NEW EVIDENCE entitles mr. murray the right

to litigate motions For Discover, motions to Exclude evidence, as well as, motions to Dismiss, motion for Judgement of Aquittal, motion for New trial at a minimum.

mr. murray request leave to Amend this motion because it cannot be Fully litigate until Discovery has been obtained, experts have been consulted, and the FBI complies with Brady/Giglio requirments.

while this court may not have Jurisdiction over a federal agency, This court Does have Jurisdiction over the state Attorney and ordering that the state assist the Defence in obtaining Discovery from said federal agencies. Case Law supports this position....

That the new evidence will show that Agent Dizinno's trial testimony was False and that the FBI concealed evidence about the 1997/1998 OIG investigation. That the 16 words/phrases addressed in the ABA report were NOT part of The 2012 review in mr. murrays case.

under Jones this court must Do a cumulative analyse of All evidence and when reviewing this claim in conjunction with other New evidence, establishes mr. murray is entitled to J.O.A alternatively, a new trial.

under U.S. supreme court and Florida supreme court Precedent Fraud on the court can be address at anytime and the state cannot rely on a procedural bar.

Not only was agent Dizinnos testimony false about the 1997/1998 OIG investigation, but Agent Dizinno [knew] that his testimony exceeded the limits of science and FBI memo's support Such. But this evidence was never disclosed to Defense Attorneys and concealed by Agent Dizinno who wanted to Protect The "Agency".

Additional NEW Evidence

That additional new evidence PCAST report Sept. 2016. This report has never been litigated and ruled on by any court. Even if This court finds its not new evidence, this court [must] still review it under the cumulative analysis because it and/or its findings would be admissible at a new trial. This claim was partially addressed in April 30th new trial motion and counsel requested leave to Amend such because counsel needed time to review records in murrays case.

murray request leave for counsel to fully plead this claim.

Additional New evidence - 2014 assement

In Sept. 2022, while reviewing records murray discovered the relavance of the July 2014 USDOJ/OIG an assesment of the 1996 DOJ Task force review.

murray request leave for counsel to fully plead this claim which reveals That, Dizinnos testimony was false when claiming the 1997-98 investigation had nothing to do with him or The procedures/Technics used in this case. Again, The issues are extensive and counsel will need time to obtain discovery, review records to fully litigate this claim which [must] be reviewed under cumulative analysis when reviewing all claims.

D. NEW EVIDENCE DEFENCE MEDICAL EXPERT

The new evidence rebutts the states arguement in Murrays trial's of "Two weapons", means "Two suspects". Dr. Anderson oct 27, 2022 Deposition reveals there's [NO] evidence of "Two weapons" AND, That Dr. Anderson seen No evidence of rape as alledged in all of mr. Murrays trials and relied on by the courts finding "guilt." Additionally, The states reliance on Dr. Flora's finding of Rape was rebutted, but not introduced in Murrays trials was That, FDLE Found [NO] semen Anally or Vaginally, when They tested the rape kit, and even noted, "conflicting results."

That a cumalative review of This claim inconjunction with other new evidence argued herein undermines the states case, and establishes Murrays actual Innocense.

Mr. Murray request leave so counsel can Fully Plead This claim, attaching multiple documents supporting the claim.

E. Juanita White Testimony

That the state (without objection) was able to introduce Juanita whites [Highly Prejudicial] testimony which played a role in convicting mr. Murray. White testified that she had seen mr. Murray running thru her Yard, Sicked her Dog on Them and told Them she had a gun. the State seized on this Prejudicial testimony and argued to Juries and Fla. Sup ct it was "evidence" of Murrays guilt.

At a new trial this evidence would be inadmissible and this court has already ruled it would not be admissible in resentencing.

Murray request leave for counsel to Fully plead this claim and again, another issue that undermines the states case under cumulative analysis.

F. EVIDENCE OF CO-DEFENDANTS GUILT

That the state, in Prior trials introduced evidence of co-defendants "guilt" and relied on such to argue to the Jury mr. Murrays "guilt", based on evidence against co-defendant. At a new trial that evidence would be inadmissible where counsel could file a motion to exclude that evidence. murray request leave to for counsel to Fully plead this claim.

G. Double Jeopardy "Theft" / Structual Error

mr. murray has been [aquitted] of Theft therefore the State wouldnt be aloud to argue such to the Jury. The structrual error occured when after aquitting murray of Theft, The court still aloud the Jury instructions to contain "Theft" as an element to convict of First Degree murder etc...

murray (in-part) was charged by indictment with, Burglary with an assualt and/or Theft. case Law is clear in that, The conjunction and/or cant be used in the charging document.

Second error was that, after the state presented its evidence to the Jury, and while covering Jury instructions, The verdict forms failed to list "Theft" counsel requested Theft be in the verdict form. The trial court ruled he [wouldnt] allow theft to be in the verdict form. murray submitts that at that point, The court in essence aquitted murray of Theft. Therefore, based on Double Jeopardy murray cannot be retried on Theft. based on cumalative review, This removes the States arguement of "Theft".

Third structural error was when the court

instructed the Jury, The court allowed Theft to be used when determining first degree murder etc... Fourth error, Murray was charged with higher degree felony than the co-defendant. specifically, Burglary with an assault and/or Theft. There was no independant evidence proving such and the case law states There must in order for one to be charged with higher degree felony.

Murray request leave for counsel to fully litigate this claim.

H. Anthony Smith -

That the new evidence establishes that Anthony Smith is the kind of person who lie to the court and several of These facts were never addressed by any court. The evidence used to impeach smith at murrays trial Pales in comparison to the new evidence and the State failed to even disclose such to the defence.

- That smith tried to get a new deal on Three(3) seperate occassions, never disclosed to defence or Jury.
- That smiths new claim that he made up the story that the state offered him a deal was false in another attempt to get the States assistance. (SEE 2nd letter to state)
- The new evidence (smith letters) clearly show he's a liar who will used what ever tactics to get what he wants. In the letters to the State and court, smith asks the State to assist him in comitting Fraud on the court and blackmails them if They dont. At a new trial NO Juror would believe smith.

Additionally, while Smith was threatening and blackmailing by the State, The State never took any action to put a Stop to it nor Did The State charge smith

any criminal acts. Thats because the State couldnt afford to file criminal charges against its key witness and would be damning before any Jury. Instead the State sat back quietly and aloud Smith to continue.

- Jury never heard that after Smith refused to testify the state Threaten and coerced him to testify. The state informed smith that if he didnt testify They would withdraw his life sentence and seek death. The State legally couldnt do this because smith had fullfilled his orignal deal. After murrays first trial, the State could [ONLY] withdraw the deal if smith lied about his claim murray confessed. suprene court never addressed the states Threats and coercion.
- Jury never heard that smith was testifying in murrays case because smith Didnt want his family charged with Their conduct in Smiths murder. That after smith refused to testify the state threaten to recharge his family if he didnt testify in Murrays case. Again, Suprene court Didnt address this claim
- Jury never heard that smiths family Profited from smiths murder where Smith bought a car and gave to his mother, opened a car repair shop which his family took over after his arrest. Again, supreme court Didnt address this issue

Murray request leave so counsel can Fully plead this claim and must be reviewed under cummulative review.

I. NEW EVIDENCE - JAMES DIXON

Murray was Denied Due process and fair review of the Dixon claim[2]. Dixon Provided an affidavit stating that he came forward because he knows Murray is innocent. Dixon also stated that Holton wasnt home that night as he told Police and was out with Dixon comitting crimes and Holton was involved in [redacted] murder. The Trial court Summarily denied the claim without an evidentiary hearing. In the appeal to the Florida supreme court murrays own incompetent attorney defended Taylor claiming Dixon's affidavit exculpatates murray and Taylor. The supreme court denied the claim based on Two (2) reasons; (1) That Dixons affidavit cannot be true because evidence (DNA) matched Taylors and (2) That Dixon was excluded by all testing.....

That a miscarriage of Justice / manifest injustice deprived murray a fair review for several reasons. one - Defendants own incompetent attorney argued that the Dixon affidavit exculpate murray and Taylor. [No.] where in the Dixon affidavits Did he ever mention Taylor. Dixon [only] stated he knows Murray wasn't involved. Two - Dixon claimed testing "excluded" him. That the State [knew] Samples have never been taken from Dixon and nothing's been tested. counsel Discovered This after this court granted Discovery and the State disclosed such during these resentencing proceedings.

at a new trial it could be argued that Dixon points the finger at one of the true perpatrators (Holton) and excludes murray. That Dixon smoked maraboro lights and a empty marlboro light cigerett pack was

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FN2 Post conviction counsel was incompetent when argueing that Dixon affidavit Proved Taylor Innocense. Even Though the court found counsel was undermine Murrays Claims, abusing the Process and wasting resources, He still Got Paid $500,000

found on the victims back patio and a marlboro light cigeret but was found in the back yard. That Dixon may have served as the "look-out" for Holton and whom ever else was with him. That Holtons car was seen parked next to the victims Home around 5 am and later found 30 miles away near where Dixon's mother lived and few blocks from where Holton worked. additionally, Holton told Police that he had drove Past victims home and noticed it was dark around it and would be easy to break into. That Dixon has nothing to gain from giving the affidavit and has more to lose when claiming he knows Holton comitted crime and it was because [redacted] or her friend owed him money for Drugs.

Due to sloppy Police work no prints were recovered from Holtons car. That because police failed to secure and figerprint the car, Then returned it to Holton and Days later asked Holton to return it to the Police so They could "better search it".

The same is true when Police were called to [redacted] Home. Witnesses testified when the Police arrived he told them [NOT] to drive in the driveway because There may be footprints or Tire tracks. The Police ignored the warning and drove in the driveway.

Murray request leave to allow counsel to fully plead This claim, and this evidence must be reviewed under cumulative analysis with ALL other admissible evidence.

J. Alleged STATEMENTS TO POLICE

That Murrays statement to police were taken out of context, altered and "NOT Admissions of Guilt" as the State argued. This claim can not be fully

Pled until the state complys with rules of Discovery and Brady / Giglio. Detective osteen has testified that, not [ALL] of the interview questioning of murray was put in his Homicide report. That osteen [only] Put what "he" thought was relavent. Under rules of Discovery Defendant are entitled to [ALL] statements made not just the ones the detective decides to disclose, and Brady / Giglio require disclosure.

Additionally, not only is murray entitled to [ALL] detective notes of osteen but, The NUMEROUS other Detective notes of other detectives who interviewed murray.

That murray has never been Provided the state Attorney (Bernie DeLaRionda) interview of murray which took place without any detectives present. These interview notes of the stat attorney may have Brady / Giglio material and murrays entitled to such under discover.

murray request leave to amend this claim once discovery has been provided and counsel given the opertunity to Amend / Fully Plead this claim.

K. COLORING TESTIMONY

That [No] court has ever addressed the states conduct in Telling one witness what another witness testified to. That witness then changed their testimony to circumvent True Tampering claims. Murray request leave for counsel to Fully litigate this claim.

L. MURRAY LEAVING TOWN.

Murray can rebuff the states arguement why he left town And, Asst. State Att DeLaRionda as well as

Detectives questioned Murray about such. Again, Notes of [ALL] Detectives and Asst. State Attorney havent been disclosed. Murray request leave to Amend once Discovery has been provided.

M. Brady / Giglio / Napue

Murray request leave for counsel to fully plead the multple Brady / Giglio / Napue claims which must be plead seperately. That The State has allowed false / misleading testimony to go uncorrected, and illicited false / misleading testimony. That the State has allowed witnesses to falsely authentricate evidence They never handled [or] claimed They seen collected. The records are massive in Murrays case and counsel will need time to flush out ALL These claims.

N. That prosecutor Misconduct has deprived Murray Due process as guaranteed by the 5th, 6th, 8th and 14th amendment of The US constitution.

Murray request leave for counsel to Fully plead this Prosecutor Misconduct claim which is a [seperate] claim from Brady / Giglio / Napue. This complex issue will require time to Fully flush out, reviewing records to plead Such.

O. Cumulative Review.

Murray request leave for counsel to Fully plead this claim and once done, will establishe that when [ALL] claim within this motion and the April 30, 2021 new trial motion claims are combined Murrays actual innocense will be established entitling Murray to a new trial.

CERTIFICATE OF SERVICE

I Gerald D. Murray Do hereby Certify that a True and correct copy of The above has been furnished to the below by U.S. mail on this 20 Day of September 2023

Hon. mark Borello
Duval County courthouse
501 W. Adams St
Jax Fl 32202

Bernie DelaRionda
office State Att.
311 W. Monroe St.
Jax, Fl 32202

clerk of court
501 W. Adams St
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Terence Lenamon, esq
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