

January 13, 2004

Mary H. Harris
Circuit Court Clerk
P.O. Box 1810
Columbiana, AL 35051

RE: Ronald Patrick Swiney v. State of Alabama
CC 88-077.61

Dear Ms. Harris;

Enclosed please find, for the purpose of filing with the Court, Plaintiff's Request for Production of Evidence.

Thank you for your attention to this matter.

Sincerely,

Wilson Myers, Attorney for Petitioner
Ronald Patrick Swiney

cc: Clay Crenshaw

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA
EIGHTEENTH JUDICIAL CIRCUIT

RONALD PATRICK SWINEY,)
)
PETITIONER,)
)
V.) CASE NO.: 88-077.61
)
STATE OF ALABAMA,)
)
RESPONDENT.)

REQUEST FOR PRODUCTION OF EVIDENCE

Plaintiff moves the Court to grant, pursuant to Rule 16.1(d) and 16.1(c) of the Alabama Rules of Criminal Procedure, the Clerk’s Transcript of the trial and limited production of tangible objects, as noted below:

One (1) Charter Arms AR-7 rifle, serial number A271497, ammunition magazine and unfired cartridges that were taken into evidence.

Ronald Patrick Swiney’s clothing taken into evidence as follows:

- Blue and grey jacket with red-brown stains
- Pink short-sleeved button-down shirt
- “Sedgefield” blue jeans
- Pair of “Nike” brand tennis shoes

Results of Primer Residue Analysis testing conducted by David Higgins at the Alabama Department of Forensic Sciences from hand swabs taken of the Plaintiff.¹

With regard to any documents for which the State claims a privilege, the Plaintiff requests that those documents be produced to the Court for an in camera inspection.

¹ The State claims that the swabs taken from Petitioner’s hands have been destroyed (State of Alabama Motion to Dismiss, Exhibit B)

This motion is based upon the PETITION PURSUANT TO RULE 32 OF THE ALABAMA RULES OF CRIMINAL PROCEDURE FOR RELIEF FROM JUDGMENT as filed in this Court on August 13, 2003. Evidence of actual innocence exists, as revealed by a forensic discovery related to the class characteristics of the AR-7 rifle firing .22 caliber Remington rim-fire ammunition, newly-discovered by Dr. Jon Nordby on July 2, 2003.

Post-conviction relief is a means for vindicating actual claims. People v. Gonzalez, 51 Cal.3d 1179, 275 Cal.Rptr. 729, 776, 800 P.2d 1159, 1206 (1990). Plaintiff claims that this clothing evidence, when tested using SEM and IR Spectroscopy will show that there are no GSR component materials present, therefore, Plaintiff could not have fired the AR-7 rifle 8 times in an enclosed space as claimed by the State. Dr. Nordby's newly-discovered application of GSR testing can be duplicated using the actual weapon alleged to be used in this crime. That rifle will be subjected to SEM and IR Spectroscopy testing to further verify for the Court that proof exists that the Plaintiff is innocent of these crimes.

Discovery in post-conviction proceedings is available if petitioner has established "good cause" for the disclosure of the requested information. Ex Parte Land, 775 So.2d 847 (Ala.2000). Plaintiff has demonstrated that he has good cause to request the release of this exculpatory evidence for verification testing since the State's witness, Ed Moran, (State's Motion to Dismiss, Exhibit B) claims that Higgins tested for a GSR component (antimony) that he knew would not be present. Higgins actual testing results are requested in order to determine whether Moran is mistaken in his analysis of Higgins

testing or whether Higgins actually conducted an unarguably ludicrous primer residue analysis.

Plaintiff was convicted and sentenced to life imprisonment without parole in violation of his rights to substantive due process and a fair trial as guaranteed by Article I, §6 and §13 of the Alabama Constitution (1901) and the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution. The Plaintiff was denied due process at trial because this evidence was suppressed in both trial phases resulting in a clear violation of Brady.

Respectfully submitted,

Wilson Myers, Attorney for Petitioner
Ronald Patrick Swiney

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of this REQUEST FOR PRODUCTION OF EVIDENCE upon Clay Crenshaw, Attorney General's Office, Alabama State House, 11 South Union Street, Montgomery, Alabama 36130, by placing a copy of the same in the United States Mail, first class, postage prepaid on this the _____ day of _____, 2004.

Wilson Myers, Attorney for Petitioner

OF COUNSEL:

WILSON MYERS (mye006)
156 E. 15th Avenue - Suite 6
Gulf Shores, Alabama 36542
251-968-3090, Fax 968-3611
E-Mail: myerswl@gulftel.com