

IN THE SUPREME COURT OF FLORIDA

RONALD LEE WILLIAMS,

Petitioner,

CASE NO.: SC05-1579

90-3515-CFA-01

Lower Tribunal No.:

v.

JAMES V. CROSBY, JR.

SECRETARY, DEPARTMENT

OF CORRECTIONS, AND THE

STATE OF FLORIDA,

Respondents.

_____ /

PETITION FOR WRIT OF HABEAS CORPUS

UNCONSTITUTIONAL OVERRIDE OF LIFE SENTENCE

WITHOUT PAROLE FOR TWENTY-FIVE YEARS AND JURY

RECOMMENDATION OF MERCY

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RONALD LEE WILLIAMS,

Petitioner,

CASE NO.: SC05-226

Lower Tribunal No.:

90-3515-CFA-01

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The petition of RONALD LEE WILLIAMS respectfully shows:

The basis for invoking the jurisdiction of this Florida Supreme

Court is based on fundamental due process errors. Article 1, Section 13, and Article 5, Section 3(b)(9), Constitution of the State of Florida. See *Rose v. Dugger*, 508 So.2d 321 (Fla. 1987), Amendments VI and XIV of the Constitution of the United States.

See also Criminal Rule of Procedure 3.850(h) wherein habeas corpus

is available when it appears a 3.850 motion is inadequate or ineffective.

See *Snowden v. Singletary*, 135 F.3rd 732 (11th Cir. 1998) holding that

Federal habeas corpus lies to correct a due process violation whenever evidence is material in a sense of crucial, critical, or highly critical, and constitutes a denial of fundamental fairness.

See also *Davis v. Zant*, 36 F.3rd 1538 (11th Cir. 1994) holding Federal habeas corpus review appropriate to correct plain error.

PRELIMINARY STATEMENT

This petition for writ of habeas corpus relief is filed to assert claims that defendant RONALD LEE WILLIAMS was deprived of his constitutional right to jury trial under the Sixth and Fourteenth Amendments of the Constitution of the United States and Section 15 of the Constitution of the State of Florida.

The following references will be used:

A - Appendix

R - Record on Appeal 3.850

JURISDICTION

A writ of habeas corpus is an original proceeding in this Court governed by Fla. R. App. P. 9.100. This Court has original jurisdiction under Fla. R. App. P. 9.030(a)(3) and Article V, Section 3(b)(9), Florida Constitution. The Constitution of the State of Florida guarantees that "[t]he writ of habeas corpus shall be grantable of right, freely and without cost." Art.I, Section 13, Fla. Const.

STATEMENT OF THE CASE

Defendant, Ronald Lee Williams, was indicted by an Escambia County Grand Jury for first degree murder¹, attempted first degree murder, and kidnapping. The indictment charged defendant with the premeditated murder or felony murder of Derek Devan Hill, Mario Alfonso Douglas, Michael Anthony McCormick, and Mildred Jean Baker; the attempted premeditated murder or felony murder of Amanda Merrill; and six counts of kidnapping as to those individuals and Darlene Crenshaw. (R 763-764) The crimes are alleged to have occurred in Escambia County,

Florida, on or about September 20, 1988. (R 1047-1051) Defendant was tried by jury and found guilty as charged on May 10, 1991. (R 1275-1278) The jury recommended a life sentence. (R 1280) On June 21, 1991, Circuit

Judge Nickolas P. Geeker adjudged defendant guilty of first degree murder

¹Four co-defendants were also indicted on the four homicides, to wit: Timothy Robinson, Michael Coleman, Darrell Frazier and Bruce Frazier. Robinson, Coleman and Darrell Frazier were convicted. They received a jury recommended sentence of life and each were sentenced to death by Circuit Judge Nickolas P. Geeker. A notice of appeal to this Court was filed by the co-defendants.

Jurisdiction was relinquished as to Darrell Frazier, Case No. 74,943. He was resentenced by Judge Geeker subsequent to appellant's trial. He received a life sentence and filed a notice of appeal to the First District Court of Appeal (Docket Nos. 91-2424, 91-2651).

As for co-defendant Bruce Frazier, the State permitted him to plead to the lesser included offense of second degree murder and he was sentenced to a term of fifty (50) years concurrent as to each homicide count.

and sentenced him to death. (R 1306-1314) Defendant was also adjudged guilty of attempted first degree murder and sentenced to a life term, and was adjudged guilty of the six kidnapping counts and sentenced to a life term, concurrent as to each and concurrent with the attempted first degree murder sentence. (R 1294-1304)

Jury trial began May 7, 1991. Defendant was found guilty of all counts on May 10, 1991. Penalty phase was conducted on May 11, 1991 with the jury recommending life imprisonment. Motion for New Trial was denied June 21, 1991 and Defendant sentenced to consecutive death sentences. (Docket P. 23)

Defendant filed Notice of Appeal to the Florida Supreme Court on July 1, 1991. (Docket P. 24) (R 1315)

Defendant's convictions and sentences of death were affirmed August 13, 1993. (Docket P. 27) (R 104-126)

After several attempts to appoint conflict free counsel, Attorney Joseph F. McDermott of St. Pete Beach, Florida was appointed September 22, 1998. (Docket P. 31)

Motion for Post-Conviction Relief was filed August 2, 1999 (a so-called "shell" motion had been filed March 24, 1997, (R 289-455)), along with a Motion to Reconstruct Judge Geeker's office file. (Docket P. 34) (R 648-651) The reconstruction motion was denied. (R 657-658)

Affidavit and Suggestion to Disqualify Judge Geeker was filed August 18, 1999. (Docket P. 34) (R 652-656) The Motion to Reconstruct Judge Geeker's court file was denied August 25, 1999. (Docket P. 34) On August 27, 1999 Judge Geeker denied the Suggestion for Disqualification. (Docket P. 34) (R. 659)

Notice of Appeal was filed August 30, 1999 to appeal the denial of the reconstruction of the court's file and discovery deposition. (Docket P. 34) (R 660- 662) That appeal was dismissed without prejudice, November 2, 1999. (R 907)

Evidentiary hearing was held April 11, 2001. (R 959-1107)

Defendant sought to Amend/Supplement his 3.850 Motion on August 5, 2002, based upon Ring v. Arizona, 536 U.S. 584 and Apprendi v. New Jersey, 120 S. Ct. 2348 (2000). (R 1217 - 1266)

Defendant thereafter filed a Second Motion on August 30, 2004 to Amend/Supplement his 3.850 (R 1293 - 1296) seeking support from Blakely v. Washington, 542 U.S. 296 (2004).

Order Denying Defendant's Motion for Post-Conviction Relief was filed January 4, 2005 (R 1312-1500) and Notice of Appeal timely filed January 28, 2005. (R 1501 - 1502)

The Florida Supreme Court denied Williams relief in Williams v. State, 622 So. 2d 456 (Fla. 1993).

The Florida Supreme Court struck the aggravators of avoiding or preventing a lawful arrest and heinous, atrocious and cruel (could not be vicariously applied to defendant). Other aggravators were upheld to wit: pecuniary gain and cold, calculated and premeditated, other capital felonies (3 other victims), accomplice to robbery, sexual battery, burglary and kidnapping.

The following documents appear in the Appendix:

Copies of the Indictment - (Appendix 1 - 4)

Verdict - (Appendix 5 - 8)

Advisory Sentence (Appendix 9)

Order Stating Reasons for Imposition of the Death

Penalty - (Appendix 10 - 18)

STATEMENT OF FACTS

GUILT AND PENALTY PHASE

The following is an excerpt of facts from the Florida Supreme Court

decision in Williams v. State, 622 So.2d 456 (Fla. 1993). (R 1236)

(Appendix 19-41)

The evidence establishes that Defendant Williams ran a drug trafficking ring from Miami that extended from Miami to Pensacola. In September of 1988, Bruce Frazier, who oversaw Williams' Pensacola operation, became concerned that his ex-girlfriend would alert the police to the drug ring. Bruce Frazier and Michael McCormick, a street-level employee, moved a safe containing cocaine and money from one of the apartments used in the drug business to Michael McCormick's apartment. During a telephone conversation, Williams told Bruce Frazier to go to McCormick's apartment to obtain other money that McCormick owed Williams. Upon reaching the apartment, McCormick informed Bruce Frazier that the money he owed Williams and the safe they had just moved from Bruce Frazier's apartment had been stolen. Bruce Frazier called Williams and informed him of the situation and the fact that there were no visible signs of a forced entry into McCormick's apartment. Bruce Frazier testified that Williams allegedly stated that he was sending some people up to Pensacola to get the money and drugs back.

On September 19, 1988, Williams sent Timothy Robinson, Bruce Frazier's brother Darrell Frazier, and Michael Coleman from Miami to Pensacola to begin a search for the missing cocaine and money. These individuals met McCormick and Bruce Frazier at a hotel in Pensacola and went to

McCormick's apartment. After obtaining several weapons from McCormick, they went to the apartment next door and forced their way in. In the apartment were Darlene Crenshaw, Amanda Merrill, Derek Hill, and Morris Alfonso Douglas. Mildred Baker, McCormick's girlfriend was brought in shortly thereafter. Hill, Merrill, Baker, and Douglas were ordered to take their clothes off. They were then bound and gagged, and made to lie on the floor. The four men then began interrogating the prisoners. After his demands regarding the whereabouts of the money and cocaine went unanswered, Robinson began stabbing Hill. Meanwhile, the other accomplices physically assaulted some of the other hostages with kitchen knives found in the apartment.

At this point, Darlene Crenshaw stated that she knew where the stolen contraband was and that McCormick was involved in the theft. After Crenshaw's revelation, McCormick was also stripped, tied up, and stabbed several times. The Fraziers took Crenshaw to her apartment where they retrieved the cocaine and cash. The Fraziers left Crenshaw at her apartment and returned to Hill's apartment.

Meanwhile, at Hill's apartment, Mildred Baker and Amanda Merrill were repeatedly raped by Robinson and Coleman. The men were apparently stabbed and slashed several more times. Once the Frazier brothers returned, Coleman and Robinson systematically began killing the prisoners. All of the prisoners except Merrill died at the scene. Coleman first slashed Merrill's throat several times. Someone then shot Merrill in the back of the head. After the men left, Merrill was miraculously able to free herself and call 911.

At the trial Darlene Crenshaw, Amanda Merrill, and Bruce and Darrell Frazier testified for the State. It was undisputed that Williams was in Miami at the time the crimes were committed and did not shoot or stab any of the victims himself.

Darlene Crenshaw testified that Hill and Douglas had taken the safe, left it at her house, and returned on the morning of September 19, 1988, in order to open it. A portion of the money and drugs in the safe was left at her house. She testified that, later that evening while she was at Hill's apartment with Merrill, Douglas, and Hill, three armed men forced their way into the apartment and demanded the return of their "stuff." A fourth man brought in Mildred Baker a few minutes later. Crenshaw stated that one of the Fraziers kept demanding his "stuff". After telling the Fraziers that she knew where the money and drugs were, she was allowed to dress. On the way to her house, one of the Fraziers stated that he only wanted his "stuff"

and that Crenshaw would not be hurt. One of the Fraziers then allegedly stated that he would "take care of the guys." She testified that, once they had located the stolen contraband, the Fraziers left her at her house.

Amanda Merrill testified that after Crenshaw had been taken away by the Fraziers, Robinson began physically and verbally abusing Douglas and Hill, and that she was repeatedly raped. She testified that soon thereafter she heard someone come into the apartment and say, "We got what we want. Come on, let's go." She stated that another person then said, "No, I'm going to do this." Merrill then stated that she heard a gunshot and heard Mildred Baker begging not to be killed. She stated that she heard Robinson say, "Get down, bitch," and that a shot rang out. Coleman then entered the room and cut Merrill's throat. Coleman later cut her throat two more times. Finally, she stated that someone entered the room and shot her in the back of the head.

Bruce Frazier testified that in February, 1988, he established a drug operation for Williams in Pensacola. He rented an apartment where he kept a safe containing money and drugs. He testified that the entire episode began when he suspected that his ex-girlfriend would alert the police to the operation. Bruce Frazier testified that, after going to McCormick's apartment, they went next door and forced their way in. Frazier also stated that, as he and Darrell were leaving with Darlene Crenshaw, Robinson told him to "kill the girl" if the police got behind them. He testified that, upon returning to McCormick's apartment, he saw a girl lying on the bed with her throat cut and Derek Hill lying on the floor with his throat cut, and that McCormick had been stabbed in the back. Bruce Frazier testified that his brother Darrell stated that they had gotten what they came for. Robinson commented that they had one more thing to take care of before they left. Bruce Frazier stated that Coleman then shot McCormick in the head. Bruce stated that he then left the apartment, followed shortly afterwards by his brother Darrell. Bruce Frazier explained that, at this point, he heard two more shots and then saw Coleman and Robinson leave the apartment. He testified that, upon returning to Miami, he met with Williams, Darrell Frazier and Gwen Cochran; that Cochran stated that she could be charged as an accessory to murder; and that Williams replied that he could "get the most time" because he ordered the people to be killed. Bruce Frazier concluded his testimony by stating that his intent had been to merely investigate the theft, and get the money and drugs back.

Darrell Frazier testified that, during the several days prior to the murders, he, Williams, Coleman, and Robinson met several times to discuss the theft and at one meeting Williams stated that, if McCormick was involved with the theft, he should be "dropped." Both Darrell and Bruce Frazier testified that Williams ordered them to "drop" whoever was involved with the theft of his money and drugs. Darrell also testified that, after returning from Crenshaw's house, he told Robinson, "Let's go man. We got what we came for," and that Coleman responded "no, man, the nigger told us we got to drop them, man." Darrell Frazier also stated that, upon returning to Miami, Williams paid him, Robinson, and Coleman \$9,000.00 each and paid Bruce Frazier \$3,000.

During the trial, the State introduced evidence pertaining to two drive-by shootings that occurred in Jacksonville several months before the incident in Pensacola. Bruce Frazier testified that, in 1988, Vernon McClendon, an employee from whom Williams rented a house where drugs were sold, decided to end his association with Williams and start his own drug operation. Bruce Frazier stated that McClendon had not taken anything that belonged to Williams, but that, nevertheless, Williams decided that McClendon should be killed. Frazier further testified that he, Williams, Timothy Robinson, and Kelvin McKinney traveled to Jacksonville, bought several automatic weapons with Williams' money, and attempted to kill McClendon and his girlfriend, Honey Rose Hurley. Frazier testified that Williams had ordered that they kill McClendon. Another witness, Rufus Williams, testified that Ronald Williams had ordered them to "drop" McClendon in order to avoid competition. Frazier testified that, as Hurley approached a toll booth, he pulled alongside her car and Robinson shot her several times. They also shot McClendon in a similar drive-by fashion.

The jury, at the conclusion of the guilt phase, found Ronald Williams guilty as charged.

At the penalty phase, the State relied on the testimony presented during the guilt phase of the trial. The defense presented the testimony of five witnesses. Eartha Copeland, a seventy-year-old friend of Williams' family, testified that she had known Williams since he was a child and that he came from a good and loving family. Alfred Wright, Williams' cousin, testified that he had grown up with Williams in Vidalia, Georgia and that Williams had never been in trouble with the law before moving to Miami. John Morris, a friend of Williams' family, testified that Williams had been kind to him in the past. Morris asked that Williams' life be spared. In spite of the fact that Michael McCormick, one of the victims, was the father of her children, Shirley Williams, the defendant's sister, testified that Williams was a very gentle and kindhearted person, who never did anything disruptive in his entire life. Williams' mother, Louise Williams, stated that Williams had a normal childhood, was compassionate with his siblings, and helped his family as much as he could. The jury recommended a life sentence.

Darrell Frazier was originally convicted and sentenced to death. However, the trial judge subsequently reduced Darrell Frazier's sentence to life imprisonment for his substantial assistance to the prosecution in Williams' conviction. Timothy Robinson and Michael Coleman were also found guilty and sentenced to death for their participation in this incident. We have affirmed both of their convictions. *Robinson v. State*, 610 So.2d 1288(Fla. 1992); *Coleman v. State*, 610 So.2d 1283(Fla. 1992).

The trial judge adjudicated Williams guilty of four counts of first-degree murder, one count of attempted first-degree murder, and six counts of kidnapping. In his sentencing order, the trial judge found the following aggravating circumstances: 1) Williams was previously convicted of another capital felony-the murder of the other three victims-or of felonies involving the use or threat of violence; 2) the murders were committed while Williams was an accomplice in a robbery, sexual battery, burglary, and kidnapping; 3) the murders were committed for the purpose of avoiding arrest; 4) the murders were committed for pecuniary gain; 5) the murders were heinous, atrocious, or cruel; 6) the murders were committed in a cold, calculated, and premeditated manner without any pretense of legal or moral justification. While finding that no statutory mitigating factors were present, the trial judge did find the fact that Williams was a loving family member to his son and mother to be a non-statutory mitigating factor.

The trial judge concluded that the six aggravating factors outweighed the one mitigating factor and sentenced Williams to death.

NATURE OF RELIEF SOUGHT

Petitioner seeks remand to the Circuit Court in Escambia County for imposition of a sentence of Life Without Possibility of Parole for 25 years.

ARGUMENT IN SUPPORT OF PETITION

AND APPROPRIATE CITATIONS OF AUTHORITY

Florida's death penalty scheme is unconstitutional as applied to a judicial override imposing a death sentence after a jury's factual finding that aggravators do not outweigh mitigators. Violations of the VI and XIV Amendments of the United States Constitution right to trial by jury and Section 15, Constitution of the State of Florida.

Florida's death penalty statute has heretofore been consistently upheld to meet constitutional standards. However, analysis of the law in effect at the time of Defendant Williams' sentence, (1991) reveals that his sentence of death was not constitutionally applied by either United States or State standards.

Section 775.082(1), Florida Statutes then provided:

A person who has been convicted of a capital felony

shall be punished by life imprisonment and shall be required to serve no less than 25 years before becoming eligible for parole unless the proceeding held to determine sentence according to the procedure set forth in § 921.141

results in finding by the court that such person shall be punished by death, and in the latter even such person shall be punished by death.

Fla. Stat. §921.141 (1979), entitled "Sentence of death or life

imprisonment for capital felonies; further proceedings to determine sentence" provided:

Upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by §775.082.

Fla. Stat. §921.141(3) provided:

Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death . . .

If the court does not make the finding requiring the death sentence, the court shall impose sentence of life imprisonment in accordance with §775.082.

Thus, Florida's capital punishment law in 1991 provided a maximum sentence of life imprisonment without parole for twenty (25) years. Accordingly, it took a separate penalty proceeding to involve the death penalty with trappings of a jury and judge.

The cases of *King v. Moore*, 831 So.2d 143 (Fla. 2002) and *Bottoson v. Moore*, 833 So.2d 693 (Fla. 2002) uphold Florida's death penalty laws. Neither case addressed the issue presented here under 1991 Florida Statutes provisions.

Johnson v. State, 904 So.2d 400 (Fla. 2005)(SC03-1042), holds that Ring not be applied retroactively.

Petitioner urges that his case falls outside the scope of *Johnson* and within the parameters of *Ring v. Arizona*, 536 U.S. 584, 122 S.Ct. 2428, 153 L.Ed.2d 556 (2002) and *Apprendi v. New Jersey*, 120 S.Ct. 2348 (2000). This is based upon the clear language of Justice Scalia in *Blakely v. Washington*, 124 S.Ct. 2531 (2004) in which he states:

Because the State's sentencing procedure did not comply with the Sixth Amendment, petitioner's sentence is invalid.[FN9]

[7] Our commitment to *Apprendi* in this context reflects not just respect for longstanding precedent but the need to give intelligible content to the right of jury trial. That right is no mere procedural formality, but a fundamental reservation of *2539 power in our constitutional structure.

See Snowden v. Singletary, 135 F.3rd 732 (11th Cir. 1998) holding that Federal habeas corpus lies to correct a due process violation whenever evidence is material in a sense of crucial, critical, or highly critical, and constitutes a denial of fundament fairness.

See also Davis v. Zant, 36 F.3rd 1538 (11th Cir. 1994) hold Federal habeas corpus review appropriate to correct plain error.

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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this the ____ day of _____, 2005, to JAMES V. CROSBY, JR., SECRETARY, Department of Corrections, 2601 Blair Stone Road, Tallahassee, FL 32399-2500, the OFFICE OF THE STATE ATTORNEY, ATTN: JOHN C. SPENCER, Escambia County, P.O. Box 12726, Pensacola, Florida 32575 and the OFFICE OF THE ATTORNEY GENERAL, ATTN: RICHARD MARTELL, Suite P1-01, 400 South Monroe Street, Tallahassee, FL 32399-1300.

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the foregoing PETITION FOR WRIT OF HABEAS CORPUS complies with Rule 9.100(1) and Rule 9.210(a)(2), FLORIDA RULES OF APPELLATE PROCEDURE, and that this Brief has been submitted in Times New Roman 14-point font.

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