

IN THE SUPREME COURT OF FLORIDA

FILED
THOMAS D. HALL

2009 MAY 19 P 12:48

CLERK, SUPREME COURT

BY _____

JOHN MAREK,

Appellant

v.

CASE NO. SC09-821

STATE OF FLORIDA,

Appellee.

_____ /

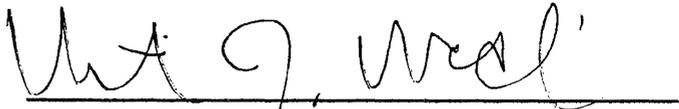
NOTICE OF PROFFER OF NEWLY DISCOVERED ADDITIONAL PROOF

COMES NOW, **JOHN MAREK**, by and through undersigned counsel, in the above-entitled appeal from the denial of a Rule 3.851 motion to vacate and gives notice of the discovery of new and additional proof in support of the Rule 3.851 motion currently pending before this Court on appeal. Attached to this notice is the affidavit obtained from Carl Mitchell regarding a statement he heard Raymond Wigley make to inmate Blackwelder while they were incarcerated together at Columbia Correctional Institution. According to Mr. Mitchell he heard Raymond Wigley tell inmate Blackwelder while the two of them were arguing that he, Wigley, had killed one person, "don't make me kill another."

Also attached to this notice is the declaration of Daniel J. Ashton regarding what Leon Douglas advised him on May 18, 2009. According to Mr. Douglas, Raymond Wigley told him that he,

Wigley, had strangled the victim. Wigley indicated that he was intoxicated and became angry with the victim because she resisted when he tried to have sex with her.

I HEREBY CERTIFY that a true copy of the foregoing motion has been furnished by United States Mail, first class postage prepaid, to Carolyn Snurkowski, Assistant Deputy Attorney General, Department of Legal Affairs, The Capitol PL01, Tallahassee, Florida 32399-1050, on this 19th day of May, 2009.



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(305) 984-8344

Attorney for Appellant

STATE OF FLORIDA }
COUNTY OF DESOTO }

AFFIDAVIT

I CARL MITCHELL, HAVING BEEN DULY SWORN OR
AFFIRMED, DO HEREBY DEPOSE AND SAY:

1. MY NAME IS CARL MITCHELL, DC # 365160. I
AM CURRENTLY INCARCERATED AT DESOTO ANNEX. I AM
CURRENTLY SERVING TWO THIRTY YEAR SENTENCES.

2. I KNEW RAYMOND WILLEY. WE WERE INCARCERATED
TOGETHER AT COLUMBIA CORRECTIONAL INSTITUTION FROM
1998 UNTIL 2000. I LIVED TWO CELLS DOWN FROM HIM IN
F DORM.

3. WHILE AT COLUMBIA CI AT APPROXIMATELY 12:00 PM ^{ONE AFTERNOON} I
HEARD RAYMOND WILLEY STATE TO INMATE BLACKWELL,
"I KILLED ONE PERSON", "DONT MAKE ME KILL ANOTHER"
THIS COMMENT WAS MADE DURING A PERSONAL ARGUMENT.
IT WAS NOT A THREAT.

FURTHER AFFIANT SAYETH NAUGHT

Carl Mitchell
CARL MITCHELL

SWORN TO AND SUBSCRIBED TO ME THIS 14th DAY OF MAY
2009, BY CARL MITCHELL WHO IS PERSONALLY KNOWN TO
ME OR WHO HAS PRODUCED THE FOLLOWING IDENTIFICATION.
DOC# 365160



Daniel J. Ashton
Commission # DD627916
Expires March 20, 2010
Daniel J. Ashton, Inc. 800-388-7000

A handwritten signature in black ink, appearing to read "Daniel S. Ashton". The signature is written in a cursive style with a horizontal line underneath.

DANIEL S. ASHTON

NOTARY PUBLIC, STATE OF FLORIDA

DECLARATION OF DANIEL J. ASHTON

COMES NOW the declarant, Daniel J. Ashton, and declares under the penalties of perjury all as follows:

I, Daniel Ashton, having been duly sworn or affirmed, do hereby depose and say:

1. I am a private investigator and was hired by attorneys Martin McClain and Linda McDermott to conduct investigation on behalf of John Marek.

2. I testified on May 7, 2009, before Circuit Court Judge Peter Weinstein, to an interview I had with Robert Pearson, DC #509708. During my interview with Mr. Pearson he mentioned Wigley may have spoken to an individual named Clifton Clark, DC #297398, about his case. Mr. Clark's name was not listed in any of Wigley's Department of Corrections records. I located Mr. Clark in Department of Corrections custody.

3. Due to other previously scheduled interviews and Department of Corrections rules, it was not until May 12, 2009, when I was able to speak to Mr. Clark at Hamilton Correctional Institution. Mr. Clark did not recall any conversations with Wigley about his case, but suggested that I speak to Leon Douglas, DC #541168, because Mr. Douglas spent a great deal of time in the prison law library and often assisted other inmates with their cases. Mr. Douglas's name was not listed in any of Wigley's Department of Corrections records. I located Mr. Douglas in Department of Corrections custody.

4. On May 18, 2009, I interviewed Mr. Douglas at Madison Correctional Institution. Mr. Douglas informed me that he had been previously incarcerated with Wigley. Wigley spoke to Mr. Douglas at the prison law library a number of times. Wigley requested that Mr. Douglas assist him with his case.

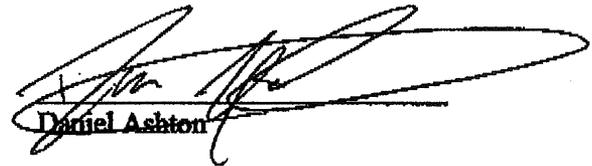
5. During one conversation, Wigley revealed several facts about his case. Wigley

specifically told Mr. Douglas that he strangled the victim. Wigley said that he was intoxicated and became very angry with the victim because when he was trying to have sex with her, she fought with Wigley. Ultimately, the violence escalated and Wigley strangled her.

6. Wigley also talked about his co-defendant. Specifically, Wigley told Mr. Douglas that Wigley was angry with his co-defendant because his co-defendant refused to do as he was told and assist in killing the victim. Wigley's anger at Marek for not complying with his wishes was the catalyst for their separation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: 5/18/09


Daniel Ashton