

**IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT**

ANTHONY W. BROOM,
Petitioner,

v.

Habeas Case No.: _____
Trial Ct. (Polk County)
Case No.: CF81-1860A1-XX

**SCOTT CREWS, Warden, Mayo
Correctional Institution Annex,**
Respondent.

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, ANTHONY W. BROOM, *pro se*, (herein after Petitioner or Broom), files this Petition for Writ of Habeas Corpus, pursuant to chapters 79.01 and 79.09 Fla. Stat. (2015) and Article I, Section 13, Florida Constitution.

Petitioner is being illegally imprisoned against his will in violation of the Florida and United States Constitutions. He is being housed at Mayo Correctional Institution Annex, at 8784 W. U.S. Hwy 27, Mayo Florida 32066, by Warden Scott Crews, which is in Lafayette County, Florida. Petitioner is imprisoned without just cause in violation of his constitutional rights to substantive due process and must be released. As such, this writ of habeas corpus, becomes a writ of right, which may not be denied, as it should be granted to everyone who is unlawfully detained in prison and restrained of his liberty. Smith v. Kearney, 802 So.2d 387, 389 (Fla. 4th DCA 2001); Sneed v. Mayo, 66 So.2d 865, 869 (Fla. 1953). There is no other

remedy available other than this writ of habeas corpus for an innocent person being unlawfully imprisoned.

BASIS FOR INVOKING JURISDICTION

This court has jurisdiction pursuant to Chapter 79.01 and 79.09 Florida Statutes (2015) and Article V, Section 4(b)(3) Florida Constitution, where Petitioner is being housed in a prison that lies within the territorial jurisdiction of this Court. Any competent court may adjudicate an order void or illegal. Murray v. Regier, 872 So.2d 217, 221 (Fla. 2002)(citing Alachua Regional Juvenile Detention Center v. T.O., 684 So.2d 814, 816 (Fla. 1996), in order to prevent a further manifest injustice or that is without jurisdiction or void.

SUMMARY OF ARUGUMENT

Petitioner's argument is pre-arrest, pre-indictment and pre-trial. He is not arguing mere condition of confinement but, the incorrectness of the confinement and entitlement to immediate release. Innocence or guilt is not at issue but due process utilized to imprison petitioner. The judicial process, from beginning to end, is tainted and, in this case, null and void, lacking subject matter jurisdiction. The State committed fraud on the court at the first appearance when he presented the magistrate with the charging detective's false, fabricated Probable Cause Affidavit/Arrest report which he knew to be such. The affidavit contained material facts from the witnesses which they did not state to the detective. At the Grand

Jury hearing, the ASA presented this same false and tainted evidence, known by him to be such, in order to influence the Grand Jury into returning its' true bill. The ASA never informed the Grand Jury, the Court and the Defense of such. Without a valid indictment returned on untainted evidence, the court lacked jurisdiction and, because of that lack of jurisdiction, Petitioner is being unlawfully imprisoned.

FACTS OF THE CASE

WITNESS STATEMENT (6/24/81):

At approximately 10 am on 6-24-1981, Detective Sandra Woodard of the Winter Haven Police Department obtained statements from Kumar and Barbara Singh who had been in the motel room adjacent to Room #539 at the time of the tragedy. The following statement was provided by Mrs. Barbara Singh, followed by her husband's own statement:

[BARBARA SINGH]: "We was sleeping in bed, I must have been in a deep sleep or something because I never heard no voices or nothing, and all at once I heard this loud noise. To me it sounded like a commode lid just slammed down real hard and I heard a big loud scream or a voice or something but I couldn't make out what was said because the air conditioner was on. After that, that big loud noise, or scream or whatever it was, it was quiet for a few seconds and I set up on the edge of the bed here and everything was quiet so I just laid back down when I laid back down was when I started hearing noises. At the time I thought they were arguing or something, someone arguing over there. Then it started getting loud again then my husband got out from the bed there and he called

the front desk. When he called the front desk and they said there was a shooting and the police was there and I looked out the window and the police was there.”

[SANDRA WOODARD]: “Did you hear a gunshot?”

[B.S.]: “That must have been the commode lid I heard; that must have been the shot, when I thought it was the commode lid. I didn’t know what was going on so I thought it was a commode lid being slammed down but that must have been the shot. When I heard it I just sat straight up in my bed.”

[S.W.]: “What time was this, do you know?”

[B.S.]: “I never looked at the time. I looked at the time after they started leaving this morning. I think it was about 4:30, our time.

[S.W.]: “Did you hear what was being said next door?”

[B.S.]: “No, I couldn’t understand no voices. All I could hear was the noise of the voice, you know, how loud it is.”

[S.W.]: “And that’s actually what woke you up?”

[B.S.]: “Yeah, and that noise of the shot or commode or whatever I thought it was. That’s what brought me out of my bed.”

[S.W.]: “Is there anything else?”

[B.S.]: “That’s all I can remember.”

[KUMAR SINGH]: “Well, I was in bed, the same time, we were sleeping, and I heard a loud noise. I don’t know what it was, but both of us jumped up together. We didn’t know what it was. To me, it didn’t even sound

like a gunshot.”

[S.W.]: “It did not sound like a...”

[K.S.]: “It did not, no it did not sound like a gunshot, just a loud noise. And I was trying to figure where the noise was and I just couldn’t figure where the noise was. I don’t know what it was, it might have been a gunshot, but it was loud. It woke us up. We was sleeping and we never heard nothing until the noise. That was it. Then jumped out of bed, you know, and I heard some voices but I don’t know what they was saying... we...”

[S.W.]: “Did you hear voices before the loud noise?”

[K.S.]: “Nope, Nope. We was sleeping. We heard nothing until the loud noise what wake us up, nothing at all. We didn’t know what the loud noise was <inaudible> it might have been a small gun, it didn’t sound real loud, but it was loud enough to wake us. The kids were sleeping too but they didn’t wake up, just both of us jumped out of bed and we was trying to figure the noise but we didn’t know what the noise was at all. We never suspected it to be a gunshot to tell you the truth and we heard voices afterward but I don’t know if it was one voice or two voices. We didn’t know, but we heard voices, like arguing of some kind.”

[S.W.]: “That was after the loud noise, it sounded like they were arguing?”

[K.S.]: “After the loud noise, so we just went to bed. We figured it was just arguing next door, that’s normal once in a while. So afterwards some voices wake us up outside. Look like it was argument and I figure police <inaudible> might get in a fight or something like, so I went to the phone called the front desk and told them to send the police up here and I told them <inaudible> and they said they already knew there was a shooting and it was sure a surprise to me, you know. We just knew

somebody got shot, you know, <inaudible> accident or what it was.” (concluded 10:05 am, 6-24-81). See, **Exhibit A.**

PROBABLE CAUSE AFFIDAVIT/ARREST REPORT (6/24/81)

On 6-24-81 at or about 5:33a.m., after taking the Singh’s statements. Detective Sandra Woodard generated a Probable Cause Affidavit/Arrest Report in which she made the following statement under oath as the affiant:

“ON 6-24-81 AT APPROXIMATELY 4:05AM, THE ABOVE NAMED DEFENDANT AND VICTIM, CHARLOTTE SWENSON MARTZ, BECAME INVOLVED IN AN ARGUMENT OF SOME TYPE AND A FEW MINUTES LATER A LOUD “BANG” WAS HEARD BY WITNESS, BARBARA SINGH AND HER HUSBAND, KUMAR SINGH. THE VICTIM WAS LAYING IN THE BED OF ROOM 539, BLEEDING FROM THE AREA OF THE HEAD. OFFICER DENNIS, THOMAS OBSERVED THE DEFENDANT PICK A BLUE STEEL REVOLVER OFF THE FLOOR AND TOSS IT ON THE SOFA, ADJACENT TO THE BED, AND STATED ‘THERE’S THE GUN.’ NO KNOWN MOTIVE FOR HOMICIDE.” (Filed 6/25/81; 3:20pm).

This report was not filed in the Clerk’s office until 6-25-81 at 3:20pm. See

Exhibit B.

DEATH INVESTIGATION REPORT (6/24/81)

On 6-24-1981 at approximately 5:45a.m., Detectives Henry and Woodard created the Death Investigation Report in which Detective Woodard stated the following:

“According to investigation, the victim and suspect were in Rm #539 just prior to shooting, and the EMT was summoned to Rm #539 Re: shooting.” See, Exhibit C.

No factual basis (i.e. camera, eyewitness statement, defendant statement, etc.) places the suspect in the room “just prior to shooting.”

ORDER FOLLOWING FIRST APPEARANCE HEARING (6/25/81)

On 6-25-1981 at 1:15pm, Judge Dale Durrance issued his order to detain Petitioner in which his order held:

“Probable Cause to detain the defendant is found based upon ✓ deposition or testimony under oath, a copy of which is filed with the clerk of court.”

Det. Woodard’s *Probable Cause Affidavit/Arrest report*, however, had not been filed with the Clerk of the Court until 3:20pm and contained false information contrary to the Singh’s actual statements. **See Exhibit D.**

BOND REDUCTION HEARING TESTIMONY by Detective Woodard (6/25/81)

Following the First Appearance Hearing on 6-25-81 at 3:35pm, the Trial Court held a Bond Reduction Hearing in which Detective Woodard was questioned by Defense Counsel regarding the truthfulness of her sworn statement. Although Defense Counsel attempted to address the issue before the court, the following excerpts show that the court would not allow the issue to be properly addressed:

A: Like I say, I did not write that affidavit.

Q: Well, ma’am, you interviewed these witnesses personally?

A: Yes, sir.

Q: And you know what they told you?
A: Yes, sir.
Q: And you signed this affidavit under oath, which is different than what they told you?
A: Yes, sir.
Q: Did you think there was something wrong with that?
A: I did not reread it once it was typed, that was my error.
Q: You never read the affidavit, you just signed it?
A: I did not reread it.
Q: What do you mean, you didn't reread it?
THE COURT: She's already said it was her error. Please move on Mr. Barest. (emphasis added).
MR. BAREST: All right, sir. **See Exhibit E.**

Det. Woodard admitted that she did not write (type) the affidavit. She testified, under oath, that she personally interviewed Mr. and Mrs. Singh and knew what they had told her in that interview. Detective Woodard admitted that the sworn to and signed affidavit contained information different than what the Singhs told her. Det. Woodard did not testify to the fact that she did not read the affidavit before signing it. She stated that she did not "reread" it. The false statement was typed on the affidavit at the time Det. Woodard signed it under oath. The Court, rather than have the issue of false information properly addressed, required Defense Counsel to move past the issue. Affiants are responsible for their sworn statement in an affidavit to which they apply their signature.

STATE'S MOTION TO DISMISS DEFENDANT'S MOTION FOR POST CONVICTION RELIEF (1-20-86)

Approximately 4 ½ years after Det. Woodard signed her name to the sworn affidavit containing knowingly false information, the prosecutor, Assistant State Attorney Hardy O. Pickard filed a motion in response to Broom's Motion for Post Conviction Relief asking the court to dismiss the defendant's motion. In his Motion to Dismiss, filed on 1-20-1986, Mr. Pickard addressed the issue of the "Probable Cause Affidavit/Arrest Report" and downplayed its use in the following excerpt:

*"Defendant was prosecuted based upon an indictment returned August 21, 1981 by a Polk County Grand Jury. Once that indictment was returned, Det. Woodard's probable cause affidavit ceased to play any part in the case. The return of the indictment conclusively established probable cause to try the defendant regardless of the truth or falsity of the allegations in Det. Woodard's affidavit. Once the indictment was returned, the trial court was without jurisdiction to dismiss the indictment on an allegation of no probable cause." See **Exhibit F.***

Mr. Pickard, who was at the bond hearing and aware of the problem prior to the Grand Jury hearing held in August 1981, utilized Det. Woodard's affidavit to obtain an indictment. He then attempted to use that indictment to bar Petitioner from seeking a dismissal of the indictment, even though he knew the indictment was based, in part, on false information and sworn testimony.

ARGUMENTS

ARGUMENT FOR JURISDICTION:

The Due Process Clause, Article I, Section 9, of the Florida Constitution provides that “[n]o person shall be deprived of life, liberty or property without due process of law.” Anderson v. State, 574 So.2d 87, 91 (Fla. 1991). When a person’s right to due process has been violated, it is considered a fundamental error. See Reddick v. State, 56 So.3d 132 (Fla. 5th DCA 2011). A fundamental error is, by its very nature, a miscarriage of justice.

Where “the court finds that a manifest injustice has occurred, it is the responsibility of that court to correct the injustice if it can” in habeas corpus proceedings. Adams v. State, 957 So.2d 1183, 1186 (Fla. 3rd DCA 2006). “The writ of habeas corpus is an ancient writ with its origins dating as early as the Magna Carta in 1215.” Valdez-Garcia v. State, 965 So.2d 318 (Fla. 2nd DCA 2007). “The modern writ dates to the British Habeas Corpus Act of 1679 and has been consistently used as a method to obtain jurisdiction over a jailor or other person who is illegally detaining a person so that a court may order the release of the person illegally detained. See 28 Fla. Jur. Habeas Corpus and Postconviction Remedies §1 (2007), Allison v. Baker, 152 Fla. 274, 11 So.2d 578, 579 (1943).” Valdez, *id* at 318.

Petitioner has the choice of filing in the circuit court or district court

pursuant to §79.09 Florida Statutes.

The procedure for the granting of the writ of habeas corpus is “ ‘not to be circumscribed by hard and fast rules or technicalities which often accompany [the Court’s] consideration of other processes.’” Santana v. Henry, 12 So.3d 843, 848 (Fla. 1st DCA 2009)(quoting Anglin v. Mayo, 88 So.2d 918, 919-20 (Fla. 1956)). “While the right to habeas relief is subject to certain reasonable limitations consistent with its full and fair exercise, it should be available to all through simple and direct means, without needless complications or impediment, and should be fairly administered in favor of justice and not bound by technicality.” Murray v. Regier, 872 So.2d 217, 221 (Fla. 2002). Almost a decade later, the Florida Supreme Court held that “ ‘[t]he scope and flexibility of the writ – its capacity to reach all manner of illegal detention – its ability to cut through barriers of form and procedural mazes – have always been emphasized and jealously guarded by courts and lawmakers.’” Henry v. Santana, 62 So.3d 1122, 1128 (Fla. 2011)(quoting Santana v. Henry, 12 So.3d 843, 848 (Fla. 1st DCA 2009))(inner citation omitted).

“If it appears to a court of competent jurisdiction that a man is being illegally restrained of his liberty, it is the responsibility of the court to brush aside formal technicalities and issue such appropriate orders as will do justice.” Santana, *id* (quoting Anglin, at 919-20). “In habeas corpus the niceties of the procedure are not anywhere near as important as the determination of the ultimate question as to

the legality of the restraint.” *Id.* Chief Judge Anstead, in Baker v. State, *infra*, concurred specially with the majority opinion and added that “the writ of habeas corpus ‘is enshrined in our Constitution to be used as a means to correct manifest injustices and its availability for use when all other remedies have been exhausted has served out society well over many centuries.’” Adams v. State, 957 So.2d 1183, 1186 (Fla. 3rd DCA 2006)(quoting Baker v. State, 878 So.2d 1236, 1246 (Fla. 2004)).

In 2011, the First District Court of Appeal held that “fundamental error was within the very limited circumstances in which the writ of habeas corpus could be used to provide relief...” Minnich v. State, 130 So.3d 695 (Fla. 1st DCA 2011). See, Prince v. State, 98 So.3d 769 (Fla. 4th DCA 2012)(court held that fundamental error warranted habeas corpus relief); see also, Johnson v. State, 9 So.3d 640 (Fla. 4th DCA 2009)(“Fundamental error occurred...and thus habeas corpus relief was warranted”).

Petitioner sets forth his argument below of fundamental error and manifest injustice, and, in so doing, herein notifies this court that “[w]hen a petition for writ of habeas corpus alleging that the petitioner is entitled to immediate release sets out plausible reasons and a specific factual basis in some detail, the custodian should be required to respond to the petition.” Henry, *id* at 1128 (quoting Santana, *id* at 848). “ ‘The very nature of the writ demands that it be administered with the

initiative and flexibility essential to ensure that miscarriages of justice within its reach are surfaced and corrected.” Santana v. Henry, 12 So.3d 843, 848 (Fla. 1st DCA 2009)(quoting Harris v. Nelson, 394 U.S. 286, 291, 89 S.Ct. 1082, 22 L.Ed 281 (1969).

The Florida Supreme Court has made clear that it, as well as all Florida courts, will remain alert to claims of manifest injustice. See, Adams v. State, 957 So.2d 1183, 1186 (Fla. 3rd DCA 2006)(quoting Baker, *supra*, at 1246).

Thus, this Court has jurisdiction to hear this pleading.

ARGUMENT FOR THE CLAIM ON THE MERITS:

As stated above, “[t]he Florida Constitution provides that ‘[n]o person shall be deprived of life, liberty or property without due process of law.’” Anderson, *supra* at 91. “Substantive due process protects fundamental rights that are, so ‘implicit in the concept of ordered liberty’ that ‘neither liberty nor justice would exist if they were sacrificed.’” Jackson v. State, 137 So.3d 1470 (Fla. 4th DCA 2014)(quoting Palko v. Conn., 58 S.Ct. 149 (1937)).

The Florida Supreme Court held in Skipper v. Schumacher, 169 So. 58 (Fla. 1936), that the due process clauses of State Constitution “must and shall be upheld, and given full force and effect by the courts.” 169 So. 58, 65.

The prosecuting attorney is an agent of the State, as respects whether his action is state action within amendment to federal constitution prohibiting “State

[from] depriving any person of life, liberty or property without due process of law,” Skipper, 169 So. 64, “and if he knowingly secures a conviction by the conscious and deliberate use of perjured testimony, this is sufficient ground for holding such judgment and conviction null and void.” *Id.*, at 64. The Supreme Court made it known that “NO GROSSER FRAUD COULD BE PERPETRATED UPON A COURT.” *Id.* (emphasis added).

THIS CASE:

In the present case, as shown by the “Facts of the Case” above, the State Assistant Prosecutor, Mr. Hardy Pickard, was aware of the fraudulent, false ~~testimony presented under oath by Detective Woodard, and he was aware of it at~~ the First Appearance Hearing (where ^{he} had Woodard’s affidavit and the Singh’s statements). Also, he was aware of it the day after her report was generated and used it to establish probable cause, when the Bond Reduction Hearing was held and Det. Woodard admitted her sworn affidavit contained material facts from the Singhs that they did not state. This was weeks before the Grand Jury had convened.

In 1974, the Ninth U.S. Circuit Court of Appeal held in U.S. v. Basurto that due process requires that “[w]henver the prosecutor learns of any perjury committed before the grand jury, he is under a duty to immediately inform the court and opposing counsel — and, if the perjury may be material, also the grand

jury.” 497 F.2d 781, 785-86 (9th Cir. 1974)(emphasis added). The prosecution was fully aware that the statement in her sworn affidavit was false, yet Mr. Pickard proceeded forward with her affidavit when he presented evidence and testimony to the Grand Jury. “The prosecutor who initiates and prepares criminal cases presented to [a] grand jury and who is present while the grand jury hears testimony and calls and questions the witnesses and draws the indictment ‘has [the] duty not to permit a person to stand trial when he knows that perjury permeated the indictment.” Basurto, *id.*

DUE PROCESS VIOLATION:

~~As in Basurto, Petitioner’s right to due process in this case at bar was~~ violated where Petitioner’s Grand Jury returned an indictment which the government knew was based partially on perjured testimony, the perjured testimony was material, and jeopardy had not attached. *Id*; see also Anderson v. State, 574 So.2d 87, 91 (Fla. 1991)(where the Florida Supreme Court held that “a [p]rosecutor [who] permits a defendant to be tried upon an indictment which he or she knows is based on perjured, material testimony without informing the court, opposing counsel, and the grand jury” violates due process.)(emphasis added) and Murray v. State, 3 So.3d 1108, 1118 (Fla. 2009)(“[D]ue process is implicated when a prosecutor permits a defendant to be tried upon an indictment which he or she knows is based on perjured, material testimony without informing the court,

opposing counsel and the grand jury”)(emphasis added). The *Basurto* court has informed us that such actions by the government “**cannot** comport with [the] ‘fastidious regard for the honor of the administration of justice.’” Basurto, *id* at 787 (emphasis added).

Where the prosecutor learned that his chief witness had perjured herself before the grand jury, he was under the duty to notify the trial court and the grand jury. Basurto, *id* at 785-86. “Because this duty is owed to the court and grand jury and not to the defendant, the strategic decision of the defendant not to challenge the indictment cannot affect the prosecutor’s obligation to seek dismissal of the indictment.” Basurto, *id* at 794 (see footnote in concurring opinion). The United States Supreme Court, in Napue v. Illinois, “reaffirmed the principle stated in many of its prior decision that ‘a conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment.’” Basurto, *id.* at 786 (quoting Napue v. Illinois, 360 U.S. at 269 (inner citations omitted)). The Supreme Court held that “[t]he same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears.” Basurto, *id* (quoting Napue, *id.*)

Here, weeks before the Grand Jury heard the testimony of Det. Woodard, Mr. Pickard was aware of the false statement within her Probable Cause Affidavit, yet he allowed it to go uncorrected to the Grand Jury. “The consequence to the

defendant of perjured testimony given before the grand jury are no less severe than of perjured testimony given at trial, and in fact may be more severe,” where “[t]he defendant has no effective means of cross-examining or rebutting perjured testimony given before the grand jury, as he might in court.” Basurto, *id* at 786.

“The grand jury serves important public interests not only through its examination into the commission of crimes but also its ability ‘to stand between the prosecutor and the accused, and to determine whether the charge was founded on credible testimony or was dictated by malice or personal ill will.’” Basurto, *Id* at 793-94 (quoting Hale v. Henkel, 26 S.Ct. 370, 373 (1906)).

The Grand Jury heard the testimony of Det. Woodard; however, her Probable Cause Affidavit contained fraudulent statements contrary to the statements provided directly to her by the material “earwitnesses,” Kumar and Barbara Singh. Det. Woodard testified under oath that she had a personal dislike for Broom which pre-dated his arrest on June 24, 1981¹. Det. Woodard stated in her affidavit that she had no motive for homicide, yet she decided to detain/arrest Broom simply because he refused to talk after telling the first officers he had no idea what happened. Also in light of her first-responding officer’s surmised suicide, who had arrived a good ½ hour before her and were the only personnel to see the scene uncompromised. Her personal ill-will permeated this case though her

Note ¹: Deposition of Sandra Woodard (**Exhibit G** page 7, lines 19-22)

false statements which were knowingly used by the prosecution to secure a grand jury indictment.

Until Anderson v. State, 574 So.2d 87, 90 (Fla. 1991), Florida courts had not directly addressed the specific issues raised “when the state presents false testimony to the grand jury or discovers prior to trial that the indictment upon which a defendant is to be tried is based upon perjured testimony.” In Anderson, the Florida Supreme Court pointed to Rule 4-3.3(a) of the Florida Rules Regulating the Florida Bar which states that “[a] lawyer shall not knowingly... (4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.” Id at 91(emphasis added). Anderson also cites Basurto and many other U.S. Sup. Ct. cases prior to Broom’s arrest.

At the Bond Reduction Hearing, Mr. Pickard was aware of the false statement made in Det. Woodard’s affidavit, yet he took no remedial measures to correct the issue. Instead, he decided to mask it and then claimed her affidavit irrelevant once the indictment was issued.²

When Petitioner filed his Motion for Postconviction Relief, claiming that his prosecution was based on fraudulent statements by Det. Woodard, Mr. Pickard filed a Motion to Dismiss Defendant’s Motion for Postconviction Relief, in which

Note ²: Indictment **Exhibit H**

he admitted that Det. Woodard's probable cause affidavit ceased to play any part in the case once the indictment was returned and stated that the prosecution was based on the indictment. The following excerpt from that motion 4 ½ years later, filed 01-20-1986, clearly shows Mr. Pickard's total disregard for due process of law:

“Defendant was prosecuted based upon an indictment returned August 21, 1981 by a Polk County Grand Jury. Once that indictment was returned, Det. Woodard's probable cause affidavit **ceased** to play any part in the case. The return of the indictment conclusively established probable cause to try the defendant **regardless of the truth or falsity** of allegations in Det. Woodard's affidavit.” (Emphasis added) **See Exhibit F, supra.**

Mr. Pickard thus knowingly allowed perjured testimony to go before the Grand Jury uncorrected and, most importantly, allowed the Grand Jury to return an indictment which he knew was based partially upon perjured testimony. Prosecutorial misconduct seems to be Mr. Hardy Pickard's *modus operandi*, though. See Kelley v. Singletary, 222 F.Supp.2d 1357, (S.D. Fla. 2002) (many incidences of prosecutorial misconduct by Mr. Pickard) and Johnson v State, 44 So.3d 51 (Fla. 2010) (“misconduct tainted the state's case at every stage of the proceeding... [Mr. Pickard] deliberately misleading both the trial court and this Court.”).

Because Mr. Pickard did not take the appropriate action to cure the

indictment, Petitioner's grand jury indictment is a nullity, and the entire judicial process thereafter is null and void. In Mooney v. Holohan, the Florida Supreme Court held that the use by a State of testimony known by its prosecuting authorities to be false **is a denial of due process of law**. 294 U.S. 103 (emphasis added). Based upon the due process provision of Article I, Section 9 of the Florida Constitution, the Florida Supreme Court held that "governmental misconduct which violates the constitutional due process right of a defendant, regardless of that defendant's predisposition **requires** the dismissal of criminal charges." State v. Glosson, 462 So.2d 1082, 1085 (Fla. 1985) (emphasis added) and as cited in Anderson, supra, at 91-92.

In Basurto, the Ninth Circuit also held that "[t]he rulings regarding the consequences of a violation or abuse of prosecutorial duty of good faith **must** be applied where the prosecutor has knowledge that testimony before the grand jury was perjured." Supra, at 786. Similar to the finding in Murray v. Regier, 872 So.2d 217, 222 (Fla. 2002), if the challenged indictment is determined to be in violation of Petitioner's constitutional guarantee of due process, then the indictment would be "illegal" and not merely defective, irregular or insufficient in form or substance.

In order for Petitioner to have been tried on the charge against him, a legal indictment was required in order for the trial court to have jurisdiction, to hold a

trial and jurisdiction to render the judgment. See Skipper v. Schumacher, *supra*, at 65 (“the court rendering the judgment must have jurisdiction of the person, and of the subject-matter, and jurisdiction to render the particular judgment assailed.”).

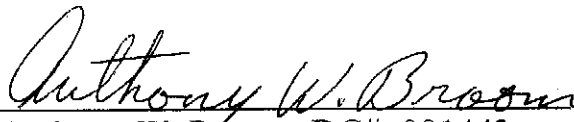
The State prosecutor’s use of Woodard’s perjured affidavit to persuade the Grand Jury into returning the State’s drafted indictment was “[g]overnmental misconduct that violate[d] [Petitioner’s] due process rights under the Florida Constitution requir[ing] dismissal of criminal charges.” Anderson, *supra*, at 92. See State v. Cannon, 57 So.3d 892 (Fla. 4th DCA 2011). *Habeas Corpus* is the proper remedy where one is restrained of his liberty through due process violation by state action. Also as stated in Figueroa, this is a defect that can be raised at anytime—before trial, after trial, on appeal or by *habeas corpus*. Figueroa v. State, 84 So.3d 1158 (Fla. 2nd DCA 2012).

CONCLUSION/RELIEF SOUGHT

The Petitioner has shown from the foregoing that the prosecutor’s state action at the First Appearance Hearing failed to obtain valid jurisdiction. That is the ASA had the admitted and proven false, fabricated and tainted Probable Cause Affidavit with the witnesses statements that clearly establish said affidavit contains material statements that the witnesses did not state. The State has failed to show lawful authority, see §79.01 Florida Statutes. Nevertheless, the Prosecutor presented this same affidavit to the Grand Jury in order to influence them into

returning the State's tainted Indictment with their true bill, but the ASA never informed the court, the defense, and the grand jury, of such and he knew it to be false fabricated and tainted and showing no crime was committed or no lawful authority. As such, the jurisdiction is void. The trial court acted without valid jurisdiction and Petitioner is therefore being incarcerated illegally and this *habeas corpus* should liberate him, with any other relief this Court deems just and proper.

Respectfully submitted;


Anthony W. Broom, DC#: 081443

UNNOTARIZED OATH/VERIFICATION

Pursuant to §92.525, Florida Stat. (2014)

Under penalties of perjury, I declare that I have read the foregoing petition and that the facts stated in it are true.

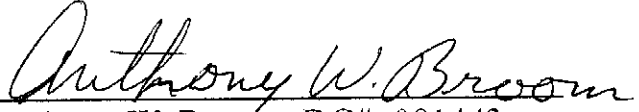
Respectfully submitted,


Anthony W. Broom

CERTIFICATE OF SERVICE

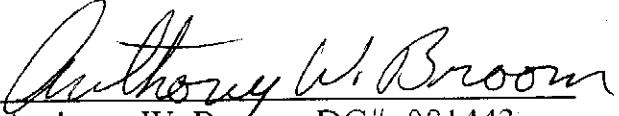
I HEREBY CERTIFY that a true and correct copy of the foregoing petition

for Writ of *Habeas Corpus*, with exhibits A through G, was placed in the hands of Mayo Correctional Institution Annex officials for purposes of mailing, via First Class U.S. Mail, to: The Office of the Attorney General—Pamela Jo Bondi, The Capitol, PL-01, Tallahassee, FL. 32399 on this 2 day of July, 2015.


Anthony W. Broom, DC#: 081443
Mayo Correctional Institution Annex
8784 W. U.S. Hwy. 27
Mayo, FL. 32066
Petitioner, *pro se*

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this document complies with the procedural requirements of Rule 9.100(1) of the Florida Rules of Appellate Procedure, and features Times New Roman 14-point font.


Anthony W. Broom, DC#: 081443
Petitioner, *pro se*

**IN THE DISTRICT COURT OF APPEALS
FIRST DISTRICT**

District Court Case Number: _____
Trial Court (Polk County) Case Number: CF81-1860-A1XX

ANTHONY W. BROOM,
Petitioner,

-vs-

SCOTT CREWS, Warden,
Mayo Correctional Annex,
Respondent.

**EXHIBITS FOR THE PETITION
FOR WRIT OF HABEAS CORPUS**

Anthony W. Broom, *pro se*
DC#: 081443 / Dorm: D2101U
Mayo Correctional Institution Annex
8784 W. U.S. Hwy. 27
Mayo, FL. 32066

**IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT**

**EXHIBITS FOR
PETITION FOR WRIT OF HABEAS CORPUS**

- Exhibit A..... Singh's Statement
- Exhibit B..... Probable Cause Affidavit/Arrest
- Exhibit C..... Death Investigator Report
- Exhibit D..... Order Following (*****) First Appearance Hearing
- Exhibit E..... Bond Reduction Hearing
- Exhibit F 1986 Postconviction Motion to Dismiss by ASA Pickard
- Exhibit G..... Deposition of Detective Woodard
- Exhibit H..... Indictment

EXHIBIT A

STATEMENT
CASE NO. 81-11241

This is Detective Sandy Woodard of the Winter Haven Police Department. I am now at the Holiday Inn, room 537. Present with me is: ~~W. R. SINGH~~ Spell your last name for me.

BS: *S-I-I-G-H:

SH: And your date of birth?

BS: February 25, 1955.

SH: Speak up a little for me, okay?

BS: Okay.

SH: And where do you live?

BS: In Richmond, Indiana.

SH: Give me your address and telephone number.

BS: 1022 Liberty Avenue.

SH: In Richmond, Indiana. And your telephone number?

BS: 935-3882.

SH: (INTERRUPTION - INAUDIBLE) ...I just recorded it and the address is Richmond, Illinois, I believe.

BS: We was sleeping in bed, I must have been in a deep sleep or something because I never heard no voices or nothing, and all at once I heard this loud noise. To me it sounded like someone did just start down real hard and then I heard a big loud scream or something but I couldn't make out what was said because the air conditioner was on. After that, that big loud noise, or scream or whatever it was, it was quiet for a few seconds and I sat up on the edge of the bed here and everything was quiet so I just laid back down. When I laid back down was when I started hearing voices. At the time I thought they was arguing or something, someone arguing over there. Then it started getting loud again, whoever it was started getting loud again, then my husband got out from the bed there and he called the front desk. When he called the front desk and they said there was a shooting and the police was there and locked out the window and the police was here.

SH: Did you hear a gunshot?

*W R SINGH
W R SINGH
SINGH*

BS: That must have been the commode lid that I heard; that must have been the shot, when I thought it was the commode lid. I didn't know what was going on so I thought it was a commode lid being slammed down but that must have been the shot. When I heard it I just sat straight up in my bed.

SW: What time was this, do you know?

BS: I never looked at the time. I looked at the time after they started leaving this morning. I think it was about 4:30, our time.

SW: Did you hear what was being said next door?

BS: No, I couldn't understand no voices. All I could hear was the noise of the voice, you know, how loud it is.

SW: And that's actually what woke you up?

BS: Yeah, and that noise of the shot or commode or whatever I thought it was. That's what brought me out of my bed.

SW: Is there anything else?

BS: That's all I can remember.

SW: Okay, I need to ask your husband about the same thing so y'all want to trade places for a second. Okay, will you state your full name please?

KS: Kumari Singh.

SW: Okay, would you spell it?

KS: K-U-M-A-R S-I-N-G-H.

SW: Okay, and your date of birth?

KS: December 14, 1949.

SW: Okay, and where do you live?

KS: Richmond, Indiana.

SW: Same address?

KS: 1022 Liberty Avenue.

SW: Okay, what did you hear this morning?

BS: Well, I was in bed, the same time, we were sleeping, and I heard a loud noise. I don't know what it was, but both of us jumped up together. We didn't know what it was. It didn't even sound like a gunshot.



SW: It did not sound like a...

KS: It did not, no it did not sound like a gunshot, just a loud noise. And I was trying to figure where the noise was and I just couldn't figure where the noise was. I don't know what it was, it might have been a gunshot, but it was loud. It ~~wake us~~ up. We was sleeping and we never heard nothing until the noise. That was it. Then jumped out of bed, you know, and I heard ~~some~~ voices but I don't know what they was saying...we...

SW: Did you hear voices before the loud noise?

KS: Nope, Nope. He was sleeping. We heard nothing until the loud noise what wake us up, nothing at all. We didn't know what the loud noise was (inaudible) it might have been a small gun, it didn't sound real loud, but it was loud enough to wake us. The kids were sleeping too but they didn't wake up, just both of us jumped out of bed and we was trying to figure the noise but we didn't know what the noise was at all. We never suspected it to be a gunshot to tell you the truth and we heard voices afterward but I don't know if it was one voice or two voice. We didn't know but we heard voices, like arguing of some kind.

SW: That was after the loud noise, it sounded like they were arguing.

KS: After the loud noise, so we just went to bed. We figured it was just arguing next door, that's normal once in a while. So afterwards some voices wake us up outside. Look like it was argument and I figure police (inaudible) might get in a fight or something like, so I went to the phone called the front desk and told them to send the police up here and I told them (inaudible) and they said they already knew there was a shooting and it was sure a surprise to me, you know. We just knew somebody got shot, you know, (inaudible) accident or what it was.

SW: How long are y'all going to be in town?

KS: He don't know for sure.

SW: But you're not staying here or living here, I mean.

KS: We just moved here last...we just came here last Thursday and we rented this place here.

SW: Okay, are you going to find a job here?

KS: We don't know for sure. I'm looking for a place to settle though but we don't know for sure we are going to settle here or go different place.

SW: Well, if we need you for the court, that's why I'm asking you, how can we locate you? Through that Richmond address?

KS: That Richmond address is her mother's address.

SW: Oh, your mother's address?

KS: That's right. The other address we lived at, we don't live in it no more, we sold the house.

SW: So you don't know where you're going to go from here?

KS: Not for sure, no.

SW: Okay, what kind of work do you do?

KS: Where I worked in Richmond, I worked as a (inaudible) we build school buses, big school buses, yellow ones. That's what I did back in Richmond. Over here I plan to find a little business of my own.

SW: I see. You don't know if it will be in Winter Haven.

KS: No. I don't know if it will be in Winter Haven or not.

SW: Let me give you my card and when you settle down you can let me know where your'e going to be living.

KS: That will be fine.

SW: Okay, this will conclude the statement. The time is 10:05 a.m., the date is June 24, 1981.

EXHIBIT B

IN THE CIRCUIT/COUNTY COURT IN THE TENTH JUDICIAL CIRCUIT
IN AND FOR Polk COUNTY, FLORIDA

81-4868F

ARRESTING AGENCY Winter Haven Police Dept.
ARRESTING OFFICER Quinn, D.G. Henry, Woodard
DEPT. REPORT NO. 81-11241
DATE/TIME OF ARREST 6-24-81/5:33AM
PLACE OF ARREST ROOM 539 HOLIDAY-INN 3RD ST,

CASE NO. _____
FILED _____ RECORDED IN _____
BOOK _____ PAGE _____
DEPUTY CLERK _____

NOTICE TO APPEAR COMPLAINT AFFIDAVIT ARREST REPORT

CITY OF WINTER HAVEN COUNTY OF POLK STATE OF FLORIDA.

The undersigned affiant swears that he/she has just and reasonable grounds to believe that on 6-24-81 at approx.

4:05 AM p.m./a.m. in the vicinity of ROOM 539, HOLIDAY-INN, POLK County, Florida

BREOM, ANTHONY WILLIE ALIAS _____
(last) (first) (middle)

ADDRESS: ROOM 539 HOLIDAY-INN 3RD ST S.W. HWY 17 SOUTH, WINTER HAVEN, FL.

D L = EG50-019-48-043 S S = 264-74-0899 DOB 2-3-48

R/S H/W Ht. AV Hair BRN Eyes Hazel FOE _____

Marital Status UNK Scars _____ Complexion RUDDY Occupation ELECTRICIAN

Employer UNK

committed the offense(s) of MURDER (FIRST DEGREE)

in violation of F.S. 784.021 or H.O. 16-14

Probable Cause:

ON 6-24-81 AT APPROXIMATELY 4:05AM, THE ABOVE NAMED DEFENDANT AN VICTIM, CHARLOTTE SWENSON MARTZ, BECAME INVOLVED IN AN ARGUMENT OF SOME TYPE AND A FEW MINUTES LATER A LOUD "BANG" WAS HEARD BY WITNESS, BARBARA SINGH AND HER HUSBAND, KUMAR SINGH. THE VICTIM WAS LAYING IN THE BED OF ROOM 539, BLEEDING FROM THE AREA OF THE HEAD. OFFICER DENNIS, THOMAS OBSERVED THE DEFENDANT PICK A BLUE STEEL REVOLVER OFF THE FLOOR AND TOSS IT ON THE SOFA, ADJACENT TO THE BED, AND STATED "THERE'S THE GUN". NO KNOWN MOTIVE FOR HOMICIDE.

JUN 25 1981 4 20
 POLK COUNTY, FLORIDA
 CLERK OF COURT
 JUDICIAL BUILDING
 WINTER HAVEN, FLORIDA

Sworn to and subscribed before me, the undersigned authority, this 24 day of June, 1981.

Sandra F. Woodard
affiant



Bound _____ Cash Surety

Detainer by _____ DETAINER PARENTS NONE
Listed by _____ TERRY QUINN, ROGER DENNIS (OFFICERS) DET SANDY WOODARD, GAY HENRY

Victim CHARLOTTE SWENSON MARTZ 2202 WELLS RD, AUBURNDALE, FL

Witness BARBARA SINGH 1022 LIBERTY AVE, RICHMOND, INDIANA 47374

Witness KUMAR SINGH 1022 LIBERTY AVE, RICHMOND, INDIANA 47374

NOTICE TO APPEAR

I agree to appear in County Court located at _____ Florida on _____, 1977 at _____ p.m./a.m. to answer the charge(s)

In this complaint I understand that a willful failure to appear will result in a warrant for my arrest and may be a new offense.

This is the "falsified" affidavit of
 ARREST REPORT / PROBABLE CAUSE, as signed by Detective
 Sandra F. Woodard (investigating officer)

EXHIBIT C

DEATH INVESTIGATION REPORT				Investigating Agency W.H.P. #1	Date 6-24-81	Time 4:12
Decedent's Name Charlotte Swenson Martz				Age 33	Sex F	Race W
Address (Number) (Street) (City) (State) 2208 Wells Rd. Arbutnotdale, FL				Occupation/Employer Gen. Tel. Co.		
Place of Death Holiday Inn Rm 539 Winter Haven, FL				Police Case No. 81-11241		
Death Occurred 6-24-81		Date 6-24-81	Time Approx. 4:00 AM	In the presence of Anthony W. Broom		
Or Found Dead		Date 6-24-81	Time	By		
Identified by Anthony W. Broom				Address Rm 539 Holiday Inn Winter Haven, FL		
Date/Time Viewed 6-24-81 4:34 AM				By Investigator		
				Medical Examiner at Scene NO		

HISTORY (What happened just prior to death and when was victim last seen alive?)

According to investigation, the victim and suspect were in Rm #539 just prior to shooting, and the E.M.T. was summoned to Rm 539 re: shooting.

Violent Death: Date/Time of Incident 6-24-81		Weapon/Calibre 22 Cal.
Violent Death: Place/Address of Incident Rm 539 Holiday Inn Winter Haven, FL		At Work <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

EXTERNAL EXAMINATION OF BODY & CLOTHING

NOTE: Record medications, prescriptions, suicide notes, evidence of bullet or knife wounds, lacerations, abrasions, bleeding, rigor mortis, lividity.

It appeared that victim was shot in the head and she did not have a top on. The victim had blue jeans on and no shoes upon arrival of patrolmen and investigators.

Name of Personal Physician N/A	Name of Next of Kin Ollie Cubanks	Relation Sister
Names and Places of Hospitalization in Recent Years		Address (Number) (Street) (City) (State) Arbutnotdale, FL
Medications, prescriptions, suicide notes: (Must be brought to M.E.) <input type="checkbox"/> Medication to M.E. <input type="checkbox"/> Prescription to M.E.		Telephone 967-3164
Probable Accident, Suicide, Homicide or Undetermined (Specify) -		Notified: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		Valuables and Disposition Police Dept. has Earrings

REPORT SUBMITTED BY Dets. Henry & Woodward Date 6-24, 1981, Time 5:45

EXHIBIT D

EXHIBIT E

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR POLK COUNTY

STATE OF FLORIDA,)
)
 Plaintiff,)
)
 -vs-) CASE NO. CF 81-1860
)
 ANTHONY W. BROOM,)
)
 Defendant.)

EXCERPT OF HEARING ON MOTION TO REDUCE BOND
(Testimony of Sandy Woodard)

BEFORE: THE HONORABLE CLINTON A. CURTIS
Circuit Judge

COUNSEL FOR PLAINTIFF: HARDY E. PICKARD
Assistant State Attorney
Hall of Justice
Bartow, Florida, 33830

COUNSEL FOR DEFENDANT: RICHARD BAREST, ESQ.
C. J. BENEFIELD, ESQ.
Law Offices of Richard Barest
Attorney at Law
2920 Franklin Street
Lakeland, Florida, 33801

DATE: JUNE 25, 1981

REPORTED BY: SYDNEY C. NEIL, RPR, CP.

FILED AND RECORDED
BOOK _____ PAGE _____

AUG 4 1981

E. D. "BOB" DIXON, Clerk



Sydney C. Neil, RPR

Official Court Reporter

Bond Professional Building, Suite 239

500 East Central Ave., Winter Haven, Fla. 33880

Phone: (813) 299-1079

(EXHIBIT-A2)

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR POLK COUNTY

2
3 STATE OF FLORIDA,)
4 Plaintiff,)
5 -vs-)
6 ANTHONY W. BROOM,)
7 Defendant.)

CASE NO. CF 81-1860

8
9 EXCERPT OF HEARING ON MOTION TO REDUCE BOND
(Testimony of Sandy Woodard)

10
11 THE ABOVE CASE came on for hearing before the
12 Honorable Clinton A. Curtis, Circuit Judge, in Courtroom 5,
13 Hall of Justice Building, Bartow, Florida, on June 25, 1981,
14 commencing at 3:35 p.m.

15 The plaintiff was represented by Hardy E. Pickard,
16 Assistant State Attorney, Hall of Justice Building, Bartow,
17 Florida, 33830.

18 The defendant was present and represented by Richard
19 Barest, Esquire, and C. J. Benefield, Esquire, of the Law
20 Offices of Richard Barest, Attorney at Law, 2920 Franklin
21 Street, Lakeland, Florida, 33801.

22 THEREUPON, the following proceedings were had
23 and taken:

24 (The following excerpt is the testimony of
5 Sandy Woodard:)

(Exhibit E) ✓

MOTION TO REDUCE BOND

1 A Like I say, I did not write that affidavit.

2 Q Well, ma'am, you interviewed those witnesses
3 personally?

4 A Yes sir.

5 Q And you know what they told you?

6 A Yes sir.

7 Q And you signed this affidavit under oath, which is
8 different than what they told you?

9 A Yes sir.

10 Q Did you think there was something wrong with that?

11 A I did not reread it once it was typed, that was
12 my error.

13 Q You never read the affidavit, you just signed it?

14 A I did not reread it.

15 Q What do you mean, you didn't reread it?

16 THE COURT: She's already said it was her error.

17 Please move on, Mr. Barest.

18 MR. BAREST: All right, sir.

19 Q And you have a telephone call from a physician
20 saying that he received a call from a woman saying that she
21 shot Charlotte Metz, is that correct?

22 A Martz.

23 Q Martz. Is that correct?

24 A Yes. He cannot recall her name, though. He advised
25 he was told, but he can't recall it.

5

EXHIBIT F

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT OF FLORIDA, IN AND
FOR POLK COUNTY

STATE OF FLORIDA,

FILED AND RECORDED

Plaintiff,

BOOK _____ PAGE _____

vs.

FEB -7 1986

CASE NO: CF81-1860

ANTHONY W. BROOM,

E. D. "BUD" DIXON, Clerk

Defendant.

BY _____

MOTION TO DISMISS DEFENDANT'S MOTION FOR POST CONVICTION RELIEF

Comes now the State of Florida, by and through the undersigned Assistant State Attorney, and requests this Honorable Court to dismiss defendant's motion for post conviction relief filed pursuant to Rule 3.850, Florida Rules of Criminal Procedure. As grounds for this motion the State would allege as follow:

Defendant's motion alleges ineffective assistance of counsel. Defendant further alleges three (3) areas in which he claims his trial counsel was ineffective:

1. Failure to file a motion to dismiss the charge of First Degree Murder based upon no probable cause for defendant's arrest.
2. Failure to effectively cross examine Winter Haven Police Department Detective Sandra Woodard.
3. Failure to object to an erroneous and misleading jury instruction.

These three (3) areas will be discussed in order.

Defendant's first allegation is that Det. Sandra Woodard placed erroneous and false information in her probable cause affidavit which led to the defendant's arrest. Defendant apparently is arguing that without this erroneous and false information there was no probable cause to arrest him and the charges were subject to dismissal. This allegation lacks substance for a number of reasons. First, defendant was not prosecuted based upon Det. Woodard's affidavit. Defendant was prosecuted based upon an indictment returned August 21, 1981 by a Polk County Grand Jury. Once that indictment was returned, Det. Woodard's probable cause affidavit ceased to play any part in the case. The return of the indictment conclusively established probable cause to try the defendant regardless of the truth or falsity of allegations in Det. Woodard's affidavit. Once the indictment was

returned, the trial court was without jurisdiction to dismiss the indictment on an allegation of no probable cause. See State v. Ballone, 422 So. 2d 900 (2 DCA 1982) for a discussion of this principle. Since the trial court could not have dismissed the indictment even if a motion had been made, counsel cannot have been ineffective for failing to file such a motion.

It should also be noted that the day after defendant's arrest and within a few hours after Judge Durrance set a "No Bond" at First Appearance Hearing, Judge Clinton Curtis held a bond reduction hearing and set defendant's bond at \$25,000. In the motion for bond, filed by counsel now alleged to have been ineffective, it was stated that one reason to grant the defendant bond was because the "proof is not evident nor the presumption great that he is guilty of 1st degree Murder...". (This motion was filed and hearing was held on June 25, 1981.)

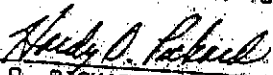
Relating the above analysis to the test for ineffective assistance of counsel promulgated in Strickland v. Washington, 104 S. Ct. 2052 (1984), the bottom line is whether counsel's failure to file a motion to dismiss affected the outcome of the proceedings. Since the motion could not have been granted, even if made, it obviously had no effect on the outcome.

Defendant's second allegation of ineffectiveness centers on the alleged failure to properly cross-examine Det. Woodard. The nature and type of cross-examination to conduct of witnesses is a tactical decision of trial counsel which is not assailable here. Magill v. State, 457 So. 2d 1367 (Fla. 1984), Armstrong v. State, 429 So. 2d 287 (Fla. 1983). In addition, this second allegation does not meet the standards of Strickland, *supra*, since defendant does not specify the specific acts or omissions of counsel which justify relief. He does not indicate what information would be forthcoming on cross examination which would not only have been beneficial to him but would have affected the outcome of the proceedings.

Defendant's third allegation of ineffectiveness concerns the failure of defense counsel to object to a certain jury instruction on excusable homicide. It should be noted that the instruction given was "word-for-word" from the standard jury instructions. It is a jury

instruction which is given in every homicide case and an objection to its being given would have been futile. The instruction given was unquestionably a correct statement of the law. Defendant's real objection seems to be that it "scuddled" his defense. That is irrelevant so long as the instruction correctly states the law. Since defense counsel's failure to object cannot be seen as a serious deficiency below the level of reasonably competent counsel, as required by Strickland, supra, and Knight v. State, 394 So. 2d 997 (Fla. 1981), it does not qualify for relief.

Since all three (3) grounds of ineffectiveness raised are insufficient on their face to merit relief, defendant's motion for post conviction relief should be denied without further hearing.


HARDY D. PICKARD
ASSISTANT STATE ATTORNEY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished this the 20th day of January, 1986, by United States Mail to Anthony W. Broom, #081443, Avon Park Correctional Institution, Post Office Box 1100/566, Avon Park, Florida 33825.

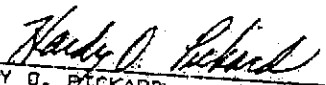

HARDY D. PICKARD
ASSISTANT STATE ATTORNEY

EXHIBIT G

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR POLK COUNTY

STATE OF FLORIDA,
Plaintiff,
vs.
ANTHONY W. BROOM,
Defendant.

CASE NO. CF81-1860A1-RX

DEPOSITION OF SANDRA WOODARD

FURSUANT TO NOTICE for the taking of the
deposition of SANDRA WOODARD upon oral examination in the
above-styled cause at the instance of the defendant, for
the purpose of Discovery, for use at trial, or both of the
foregoing, or for such other purposes as are permitted
under the applicable and governing rules, proceedings
therefor were held before Joyce A. Putnam, Notary Public
in and for the State of Florida at large, at the State
Attorney's Office, Wall of Justice Building, Bartow, Florida,
on Monday, September 28, 1981, commencing at approximately
9:00 a.m.

The State of Florida was represented by Mr. Hardy O.
Howard, Assistant State Attorney, State Attorney's Office,
Wall of Justice Building, Bartow, Florida 33830.

The defendant was represented by Mr. Richard
H. ...

1 said, there's the gun. They, of course, both had their
2 weapons drawn, and then they went in and Patrolman Dennis
3 checked the bathroom area and found out there was no one
4 else in there. Then, of course, an ambulance had already
5 been called and about that time the ambulance was arriving,
6 and they had Broom step outside when the ambulance attendants
7 came in.

8 Q Did Tony Broom know you?

9 A He should have known me. I don't know if he knew
10 me or not, but he should know me.

11 Q Why should he have known you?

12 A He's been in the police department on numerous
13 occasions when I have been there. I did live next door
14 to Booty Etheridge, like I said, and he was a constant
15 companion of Booty Etheridge. I have seen him out at
16 Liquor Mart and other places, other bars and, of course,
17 I have been with other police officers, so he should have
18 known me.

19 Q You didn't like Tony Broom, did you?

20 A Personally?

21 Q Yes.

22 A No.

23 Q Do you know who called the police and the
24 ambulance?

25 A Yes, John Zink. John Zink from the Holiday Inn

EXHIBIT H

In the Circuit Court, For The Tenth Judicial Circuit of Florida, Polk County, Spring Term, in the year of our Lord one thousand nine hundred and eighty one

The State of Florida

&

ANTHONY W. BROOM

O.R. 6456 PAGE 775
Indictment for

FIRST DEGREE MURDER (CF)

F. S. 782.04

In the Name and by the Authority of the State of Florida:

The Grand Jurors of the State of Florida, empaneled and sworn to inquire and true presentment make in and for the County of Polk upon their oath do present that ANTHONY W. BROOM of the County of Polk and State of Florida, on the twenty fourth day of June in the year of our Lord one thousand nine hundred and eighty one in the County and State aforesaid from a premeditated design to effect the death of a human being, unlawfully did kill a human being, to-wit: Charlotte Martz, by shooting her with a firearm, in violation of Section 782.04, Florida Statutes, contrary to the Statute in such cases made and provided and against the peace and dignity of the State of Florida.

REC'D - GENERAL DIVISION
F. S. B. & C. CLERK
POLK COUNTY AND DISTRICT CLERK
201 AUG 21 PM 3 30

A TRUE BILL

Edward E. Evans Foreman of Grand Jury

Presented in Open Court this 21 day of August 1981

Judge Small — *NO Bond* — *clerk Anthony A. Tall*

COUNTY OF POLK:

The undersigned states that he, as Assistant State Attorney of the Tenth Judicial Circuit in and for Polk County, Florida, as authorized and required by law, has advised the Grand Jury returning this Indictment.


QUILLIAN S. YANCEY
STATE ATTORNEY

BY: Hardy O. Pickard
HARDY O. PICKARD
AS ASSISTANT STATE ATTORNEY
TENTH JUDICIAL CIRCUIT

181 AUG 21 PM 3 30
FULTON COUNTY CLERK
TENTH JUDICIAL CIRCUIT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Exhibits A through H was placed in the hands of Mayo Correctional Institution Annex officials for purposes of mailing, via First Class U.S. Mail, to: Attorney General—Pamela Jo Bondi, The Capitol, PL-01, Tallahassee, FL. 32399 on this 2 day of July, 2015.


Anthony W. Broom, #081443
Petitioner, *pro se*