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BEFORE THE GOVERNOR
OF THE STATE OF FLORIDA

In re

JAMES ADAMS

APPLICATION FOR EXECUTIVE CLEMENCY

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Introduction

Whether to spare the life of James Adams is a question which you have faced before and have answered. But when you previously answered that question, you did not have critical information about James Adams or about the circumstances surrounding his conviction for first-degree murder in St. Lucie County which we are now able to present to you. On the basis of what we will now present to you, therefore, we ask that you consider anew whether to spare the life of James Adams.

Some of the facts which are important to this new clemency application are already familiar to you. James Adams is a black man, who is forty-six years old, who was one of fourteen children born into the family of black sharecroppers in the 1930s in rural West Tennessee. He grew up desperately poor, under conditions which have been well documented by historians and with which we are now all familiar. Mr. Adams was convicted of the rape of a white woman in 1962 and received a ninety-nine year prison sentence for this conviction. At the time of the first clemency, we were able to present some questions to you respecting the fairness of this conviction because we knew Mr. Adams had been convicted by an all-white jury and had been shackled throughout his trial. However, at that time, we had not been able to locate the record of his trial, and so we were unable to present a very clear picture to you about that trial. After serving ten years of that ninety-nine year sentence, Mr. Adams escaped from the Tennessee prison system. As you know, Mr. Adams' escape was not violent. He was a trustee working at a correctional facility for teenage girls at the time, and he simply drove away in the state-owned truck with which he had been permitted to run errands in his job.

Finally, you were previously presented with facts demonstrating that the only facially legitimate prior conviction of Mr. Adams was the rape conviction. Some seven years before the

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rape conviction, Mr. Adams had been convicted of assault and battery and sentenced to several months' confinement in the Tipton County (Tennessee) penal farm. During that period of incarceration, Mr. Adams escaped and was thereafter charged with escape but had the escape charge dismissed before going to trial. A number of months later in 1957, Mr. Adams was convicted of larceny. This crime, involving the theft of a pig, was committed by Mr. Adams in order to enable his family to eat. As with the assault and battery charge, Mr. Adams was convicted and sentenced to several months confinement in the Tipton County penal farm. As previously demonstrated to you, however, neither of these two convictions preceding the rape conviction, was constitutionally imposed. Mr. Adams was not provided counsel for these convictions, and the convictions were thus null and void under Gideon v. Wainwright, 372 U.S. 335 (1963)

Since that first clemency application, we have learned important new facts about Mr. Adams and about the crime for which he was convicted in St. Lucie County. The presentation of these facts is the primary purpose of the remaining portions of this clemency application. From the very beginning, however, we want you to understand the context in which these facts are presented. We believe, as strongly as human beings can believe, that the life of James Adams is in your hands today solely because he is a poor black Southerner. Woven into the very fabric of James Adams' life is the unfair, devastating affect of racial prejudice. In the intervening years since you first considered clemency for James Adams in November, 1979, we have discovered that the outcome of Mr. Adams' every involvement in the criminal justice system since 1955 has been influenced by his race or by the race of the victims of his alleged crimes. Because each subsequent involvement with the criminal justice system has taken into account his prior involvement, the racial prejudice associated with his earlier involvements has continued to haunt him and has compounded the racial prejudice at work in his subsequent involvements in the criminal justice system. What is most devastating about the effects of racial prejudice in the life of James Adams is that racial prejudice has criminalized him. Where

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there has been genuine doubt about his guilt of an offense, racial prejudice has overcome that doubt. It happened in Tennessee and it happened here in St. Lucie County.

The grant of clemency to James Adams cannot undo these things. It cannot erase the ten years that he spent in Tennessee's prison system; it cannot erase the ten years he has been on death row in Florida's prison system. But the grant of clemency can do that which the criminal justice system has always failed to do for James Adams.[1] The grant of clemency can say no to racial prejudice. It can say no to a centuries-long history of the incarceration and execution of black people because of their race and not because of their deeds. The grant of clemency, in short, can be a living example that we have genuinely turned our backs on racism and that we will no longer accept or accede to the spoils of racism.

Racial Prejudice and Its Fruits Have Brought James Adams to the Brink of Execution

From his first brush with the criminal justice system in Tennessee in 1955 through his conviction for first-degree murder in St. Lucie County, Florida in 1974, Mr. Adams has been criminalized, victimized, and discriminated against by the system. He has been convicted in wholly unreliable proceedings in which he was not represented by a lawyer, he has been brutalized in prisons, and he has been convicted despite the existence of

[1] Indeed only this clemency proceeding can take into account most of the facts presented to you. As you will note, many of the facts discussed herein could and should have been presented at trial. However, the courts are inclined to treat the non-presentation of evidence as an appropriate strategy decision for a lawyer and have not generally held counsel ineffective for failing to present evidence. This was the case here. Moreover, there is no post-trial legal remedy to account for the cumulative effct of facts which demonstrates genuine doubt about guilt. Florida's error coram nobis procedure requires that such facts be undiscoverable before trial and that they conclusively prevent the verdict. Facts can obviously suggest enough doubt about guilt to persuade a governor to avoid an execution without meeting these standards. Such facts are what we present to you today.

This case has thus fallen through the cracks of the legal system. Only you, through your unique power to assure that justice is done in situations just like this, can compensate for the injustice which has already been imposed and avoid the injustice which looms ahead.

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reasonable doubt where he has been accused of serious violent crimes against white people. An examination of Mr. Adams' thirty-year history of involvement with the criminal justice system strikingly reveals these common threads.

A. <u>The Convictions in Tennessee in 1955 and 1957</u>

Mr. Adams' first encounter with the criminal justice system was apparently the result of a conviction for assault and battery in 1955. The only record we have found of that conviction is an indictment for Mr. Adams' escape from the Tipton County penal farm in September 1955, "where he was confined after being convicted of the crime of assault and battery in the Court of General Sessions of [Tipton] County." Although indicted for escape, that charge was dismissed upon payment of costs on March 7, 1956. *See* Appendix A.[2]

Mr. Adams' second conviction followed on March 6, 1957 when he was convicted of petit larceny. Appendix A. The subject of this larceny committed by Mr. Adams and his brother, Jimmy Lee, was a pig. The larceny was committed at a time when the Adams family had no food and the pig was stolen to enable the family to eat. *See* Appendix B. Mr. Adams was sentenced to the Tipton County penal farm for a period of 11 months and 29 days as a result of this conviction for petit larceny. Appendix A.

On the basis of the investigation of these offenses conducted by Bruce M. Wilkinson, former assistant public defender in St. Lucie County who represented Mr. Adams in the first clemency proceeding, we know that Mr. Adams was not provided counsel in connection with either of these convictions. While he was unable to find a record of the 1955 conviction to confirm absolutely whether it was uncounseled, Mr. Wilkinson did determine from the face of the record of the 1957 conviction that no counsel had been provided. *See* Appendix C. That the first conviction was probably uncounseled as well was confirmed when Mr. Wilkinson determined "that the law in Tennessee during the

2 Submitted along with this clemency application, are a number of appendices. These appendices are referred to by letter and page number within the appendix where appropriate.

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period of time that I am talking about, '55 and '56, was similar to the Florida law, in that there was only appointed counsel in a capital case." Appendix C at page 19. Accordingly, pursuant to Gideon v. Wainwright, 372 U.S. 335 (1963) and Argersinger v. Hamlin, 407 U.S. 25 (1972), these convictions were void.

In connection with the incarceration for the petit larceny conviction, Mr. Adams suffered severe brutality at the hands of a jailer. As recounted by Dr. Dorothy Lewis, a psychiatrist from New York University who recently evaluated Mr. Adams, that brutality has had lifelong consequences for him:

> At about age 17, Mr. Adams was knocked unconscious with a bat by a guard at a penal farm where he had been sent for a relatively minor offense. He bears, to this date, an indentation in the left occipital region where he received this blow. He was knocked unconscious and remained unconscious for an unknown period of time following this severe blow. At approximately this time, he was also smacked in the face by a sheriff and apparently knocked to the ground hitting his head. He awakened to find himself on a floor near a stove. Subsequent to these episodes, Mr. Adams began to experience dizzy spells and blackouts. His most frightening blackouts occurred when he would be driving a car. Mr. Adams has not been a drinker of very much alcohol and these blackouts that he describes while driving were unrelated to any ingestion of any liquor. During one of these episodes, he lost conscious and swerved his car directly in front of an oncoming truck. When he suddenly came to his senses and stopped, the truck driver came out with a gun and threatened him and asked him why he had done what he did. Mr. Adams has never had any understanding of why these kinds of episodes occurred.... Subsequent to his head injuries, he has also experienced episodes when he has been told he did something or said something for which his memory is totally absent. These are not necessarily aggressive acts. For example, he has been told that he gave money to someone or that he borrowed money from somebody and he has had no recollection of these incidents although they occurred in the immediate past. He also is aware that he can become angry and he has an auralike experience for days prior to an episode when he feels extremely angry.... He also has had episodes when he has not understood what people were talking about and then felt embarassed and would hit his head hard against the wall. Mr. Adams has experienced macropsia in that he has had the experience of looking at a wall and having it appear to come closer to him.... He has had episodes of blurred vision.... Mr. Adams has had no episodes of deja vu. He has however had a clear episode of jamais vu. That is, on one occasion, when returning to the town, to his home in the town in which he lived after visiting another place briefly, he became totally disoriented and, according to him, took

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> several hours until he could figure out where he was. These episodes of macropsia, jamais vu, episodic blurring of vision, dizziness and blackouts are often seen in individuals with psychomotor seizures.

Appendix D. On the basis of these experiences, Dr. Lewis found that "[i]t is very likely that Mr. Adams ... suffers from a psychomotor seizure disorder...." Id.

B. The 1962 Rape Conviction

On October 30, 1962, Mr. Adams was convicted of rape and sentenced to ninety-nine years in prison by the Circuit Court of Dyer County, Tennessee. At the time of Mr. Adams' first clemency application, counsel for Mr. Adams had been unable to locate the trial transcript or post-conviction record of that conviction. See Appendix E. A second effort was made to find those documents in December, 1983 and they were finally located in the Federal Archives in Atlanta, Georgia, where they had been incorporated in a federal habeas corpus proceeding brought by Mr. Adams in the mid-1960s. Id. A review of these records conclusively demonstrates that this conviction was constitutionally defective and fundamentally unfair because of the prevailing practices and atmosphere of race discrimination in Dyer County at that period of time.

Mr. Adams' rape conviction was constitutionally defective because black people were systematically excluded from jury service in his trial and, generally in the several-year period preceding his trial. The exclusion of black people was dramatic. At the time of Mr. Adams' trial, the qualifications for jurors in Tennessee were derived from two provisions of the Tennessee Code. Section 22-101 provided that

> [e]very person of the age of twenty-one (21) years, being a citizen of the United States, and a resident of the State of Tennessee, and of the County in which he or she may be summoned for jury service for a period of twelve (12) months next preceding the date of such summons, is legally qualified to act as a grand or petit juror, if not otherwise incompetent under the express provisions of the Code.

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Section 22-228 provided as additional qualifications that jurors be "upright and intelligent persons known for their integrity, fair character and sound judgment...." In 1960, the census figures for Dyer County, Tennessee, the county in which Mr. Adams was convicted in 1962, revealed a total population of 29,537. Of this total population, 4,359 or 14.8% were black people. See Appendix F (1960 Census Tables), at 44-66, 44-87. With respect to the population twenty-one years of age or older, 13.7% (2456 out of 17,940) were black. Id. at 44-87. With respect to that portion of the population which, in addition, met the residency requirement of T.C.A. §22-101, 14.2% (2218 out of 15,1581) were black. Id. Accordingly, 14.2% of the persons objectively qualified to serve as jurors in Dyer County in 1960 were black.

At the time of Mr. Adams' trial, Section 22-228 of the Tennessee Code required the jury commissioners of each county to compose a list of citizens to serve as the jurors in the Circuit and Criminal Courts of such county for two-year intervals. The jury list was to be composed "from the tax records and the permanent registration records of the County, or other available and reliable sources...." T.C.A. §22-228. In Dyer County, for several years preceding and following Mr. Adams' trial, the jury commissioners utilized two methods for composing the jury list. First, the commissioners relied on what has come to be known as the "key man" system. By use of this system, the jury commissioners composed the jury list on the basis of people known to them. Second, the jury commissioners used the records of customers served by the local public utilities companies in Dyer County. Through a combination of these two methods, a jury list of five hundred persons was composed for each two-year period. See generally the Affidavit of Bernice A. Dennis Wilber, Appendix H.

Examination of the two jury lists covering the period from October, 1959 through October, 1964 (Appendix G) reveals the following. With respect to the five-hundred-person jury list utilized during the period from October, 1959 to June, 1962, only four persons are known to have been black. Of the remaining four hundred ninety-six persons on the list, four hundred eighty-eight

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are known to have been white. With respect to the jury list in effect from June, 1962 through October, 1964 --which is the list from which the jurors were chosen for Mr. Adams' trial in late October, 1962 -- no persons are known to have been black. Of the four hundred ninety persons whose race can be identified, all four hundred ninety persons are known to have been white. Accordingly, with respect to the jurors whose race can now be established, black people were totally excluded from jury service in Dyer County, Tennessee before, during, and after Mr. Adams' trial. Moreover, even if all of the persons whose race cannot now be determined were assumed to be black people, only 2% of the persons on the jury lists for these five years were black. (The foregoing statistics are documented in Appendices H and I.)

Under the applicable principles of the sixth amendment's guarantee of trial by an impartial jury, see Duren v. Missouri, 439 U.S. 357 (1979), as well as under the Equal Protection Clause of the fourteenth amendment, see Castaneda v. Partida, 430 U.S. 42 (1977), these practices and the statistical results of these practices violated Mr. Adams' right, well established at that time, not to have black people systematically excluded from his jury.

Within the context of his rape trial, the systematic exclusion of black people also meant that Mr. Adams was fundamentally deprived of a fair trial. There is stark evidence that the integrity of the fact-finding process in Mr. Adams' trial was severely undermined by the systematic exclusion of black people from his jury. Race discrimination was a pervasive factor in his trial. He was a black man charged with the rape of a white woman at a time and in a place where that charge meant almost certain conviction. In her testimony, the victim of the alleged rape testified that she told her husband "it was a Nigger" who raped her. (Rape Trial Transcript, hereafter "RT," at 28, included as Appendix J to the clemency application.) This epithet was frequently repeated throughout the trial. Despite the admission by the prosecutrix that she repeatedly "lost consciousness" during the incident -- in which she was physically then sexually assaulted in her house by a person who came into her house

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without her knowledge (RT 10, 11, 13-14, 27, 39-45) -- she nonetheless identified Mr. Adams as her assailant (RT 24). In describing his examination of the prosecutrix, the physician who examined her after this incident testified that she said she had been raped by a "Nigger male" (RT 80), but he found no "bruises or evidence of violence of the genital or sexual tract" (RT 81), and the presence only of normal female vaginal secretions (RT 80-81). Throughout the trial, both the district attorney and the defense counsel representing Mr. Adams referred to Mr. Adams by his first name but referred to all other persons who were witnesses, all of whom were white, as "Mr." or "Mrs.". In his defense, although Mr. Adams admitted being present at the house of the prosecutrix looking for work, he consistently denied raping her. (RT 134-135, 147).

Accordingly, race was so clearly a factor in the trial of Mr. Adams in Dyer County in October, 1962, and the evidence was so wholly centered upon the resolution of credibility -- with a white woman saying a black man had raped her and the black man saying that he had not raped the white woman -- that racially-based stereotypes were evoked by the very issues which the jury had to resolve. Under these circumstances, the systematic exclusion of black people from the jury list permitted the all-white, all-male jury to exercise arbitrary power against Mr. Adams -- which is the very evil "a jury is to guard against." Taylor v. Louisiana, 419 U.S. 522, 530 (1975).

On the basis of these facts, there can be no dispute that the systematic exclusion of black people from Mr. Adams' jury fundamentally undermined the integrity of the fact-finding process leading to his rape conviction, which, in addition to the two convictions discussed already, was the only conviction Mr. Adams had before his arrival in Florida in 1973.

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C. The Circumstances Surrounding Mr. Adams' Escape From The Tennessee Prison System

Following his sentencing on October 30, 1962, Mr. Adams was committed to the Tennessee Department of Correction to serve his ninety-nine year sentence. Nearly nine years thereafter, on September 1, 1971, the Tennessee Board of Probation and Paroles had found Mr. Adams' institutional record to be so exemplary that the Board recommended to the Governor of Tennessee that Mr. Adams' sentence be commuted to time served. When the Governor of Tennessee refused to grant the Board's recommendation, a chain of events was set into motion which ultimately made Mr. Adams feel that he had no alternative but to try to escape from the Tennessee prison system.

On September 1, 1971, the Board of Probation and Paroles found and recommended the following to Governor Winfield Dunn:

> The Board finds that for the past five years, Mr. Adams' institutional record has been exemplary. It feels that due to the circumstances surrounding the crime and his conviction, as related to the Board, he has served an adequate number of years for the offense committed. The Board, therefore, recommends that his sentence be commuted to Time Served with the Special Condition that he be under the supervision of a State Probation and Parole Counselor for a period of Ten Years after the date of his discharge from prison. The Board further recommends that a Special Condition of this commutation be made, i.e., he is not to enter Dyer County, Tennessee, under any circumstances during his period of supervision.

Appendix K at page 1. On or about the same time that this recommendation was made to Governor Dunn, however, the district attorney who had prosecuted Mr. Adams in 1962 objected to the commutation of Mr. Adams' sentence. Appendix K at page 2. Under Tennessee law at that time, an objection to commutation by the prosecutor was sufficient reason for refusing to grant executive clemency. Thereafter, Mr. Adams heard nothing with respect to his recommended commutation. Finally, after he wrote to Governor Dunn on November 16, 1971, the Director of the Board of Probation and Paroles responded by simply advising him "that the commutation in your behalf was returned to this office from the Governor's office on September 19, 1971 and was unsigned."

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Appendix K at pages 3-5. Still trying to determine why he had been denied commutation, Mr. Adams wrote the Governor on December 6, 1971 but did not learn why he had been denied commutation. Appendix K at page 6. Finally, on January 14, 1972, the Commissioner of the Tennessee Department of Correction, Mark Luttrell, told Mr. Adams that "the Governor did not see fit to sign your executive clemency papers" at the time they were submitted. However, Commissioner Luttrell indicated that within another year Mr. Adams could request commutation again and that at this time, Mr. Luttrell "would be willing to speak to the Governor on your behalf." Appendix K at page 7.

In the intervening year between his recommended commutation and his attempt to gain commutation again, Mr. Adams continued making an exemplary institutional record. <u>See</u>, <u>e.g.</u>, Appendix K at pages 8-9, where Commissioner Luttrell commended Mr. Adams for his work in constructing a picnic area at the main prison ("The attitude and quality of work has certainly been outstanding and all of us in the Department of Correction are most pleased to see men like yourself respond in such a splendid manner"). At the end of May, 1972, Mr. Adams requested the opportunity to meet the clemency board again, Appendix K at page 10, and an executive clemency interview was scheduled for "some time after September, 1972." Appendix K at page 11.

Upon this interview, a recommendation was made to the entire Board of Probation and Parole that Mr. Adams be recommended for commutation. In the course of the Board's consideration of this matter, however, Mr. Adams was told by his counselor at the prison where he worked that "a problem had developed." Shortly thereafter, he learned that the district attorney had again objected to his commutation. The Board then decided that no recommendation for commutation should be made to the Governor.

At the time that Mr. Adams was informed of this decision, he was working as as trustee at a correctional facility for teenage girls in Nashville, Tennessee. As part of his work, he had access to state-owned vehicles in which he ran errands. When he was told of the Board's decision, his counselor indicated to him that he would probably be taken off trustee's status and "moved

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inside the walls" to avoid the temptation for him to escape. His counselor also informed him for the first time that his commutation had not been signed by Governor Dunn and his commutation was not being recommended the second time, solely because of the objection of the district attorney in Dyer County.

At this point, Mr. Adams felt that he was faced with an impossible situation. He had worked very hard during the ten years that he had served his sentence. He had developed an exemplary institutional record; he had gained trustee status working at a girls' institution (despite his conviction for rape); he was a good candidate for commutation as evidenced by the positions taken on his behalf taken by the Board of Probation and Paroles. But he was now faced with the prospect of never gaining release -- solely because the prosecutor objected to that release.

Because of these dynamics, Mr. Adams decided that he had to escape if he were ever going to have any life other than that of a convict. He felt that he had done all he could to earn his freedom, and that even though the persons most directly concerned with granting him freedom thought that he should be released, he never would be. With the unfairness and discrimination of the rape trial flooding over him ten years later, he got into the truck to which he had access and he drove off.

D. The Charge and Conviction of First-degree Murder in St. Lucie County

Mr. Adams was arrested in St. Lucie County, Florida, and was charged with the murder of Edgar Brown only ten months after he escaped from the Tennessee prison system. What had happened to him before in his contacts with the criminal justice in Tennessee, however, would be revisited upon him in Florida in connection with his prosecution for this murder. What happened to him in St. Lucie County, in many respects, was the culmination of what had gone on before in Tennessee. In the St. Lucie County proceeding, Mr. Adams was convicted upon evidence which still today suggests substantial doubt about his guilt. He was convicted, however, because the state had developed a very strong circumstantial case pointing to him, and because Mr. Adams was an easy target. Mr. Adams had no "hard" evidence to demonstrate

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his innocence. He had only his word that he was not involved in the homicide of Mr. Brown but was engaged in other lawful activity at the time of the homicide.

After reinvestigating Mr. Adams' case, we have found evidence that was available but was not presented which greatly strengthens the doubt about Mr. Adams' guilt. We do not know why this evidence was not presented. We only know that now, in light of this new evidence, there exists a real, reasonable doubt concerning the guilt of James Adams. With the omission of this evidence, however, Mr. Adams had no "hard evidence" of innocence. When this fact was coupled with his prior convictions in Tennessee, which were greatly exaggerated at trial, and which were used unlawfully because of the constitutional defects associated with each of them, and with his status as a black outsider in a primarily rural county, Mr. Adams was an easy scapegoat for the murder of one of the most prominent and wealthy white people in that county.

Upon careful examination of these factors, we submit that the need for clemency in Mr. Adams' case is self-evident. Clemency is compelled because all the circumstances of this crime, both those which were and those which could have been presented, strongly suggest (certainly under a reasonable doubt standard) that James Adams is innocent, and that he was convicted solely because he was a black outsider with a criminal record accused of killing one of the most powerful white men in St. Lucie County.

(1) <u>The Evidence of Record</u>

The evidence presented by the state was wholly circumstantial. It showed that on the morning of November 12, 1973, Edgar Brown was found injured in his home shortly before 10:40 A.M. (T. 441; 544). Apparently the perpetrator had entered the residence unarmed while no one was in the house (T. 267, 324-25, 442-446). Sometime later the deceased returned home and discovered the perpetrator (T. 241, 324-25). There was a struggle, during which the deceased received head injuries from a fireplace poker kept in the house. He died the next day.

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The state presented evidence that a car like that owned by Mr. Adams was seen parked in front of the deceased's home the morning that the crime occurred (T. 325, 358). The car was also seen traveling to and from the vicinity of the deceased's home that morning (T. 372-376; 397-398). One witness, Willie Orange, positively identified Mr. Adams as the driver of the car (T. 377). Another witness, John Thompkins, thought that the driver was Mr. Adams because the driver waved at him: "It had to be him, because he throwed up his hand at me, because everybody that passed there don't hardly wave at you unless you know him" (T. 398). Mr. Adams' car was located later that day at a paint and body shop where he had left directions that it be repainted (T. 524), a course he had been considering months earlier (T. 865, 930). Mr. Adams established that his vehicle had been driven the morning of the offense at about 10:00 or 10:15 A.M., one-half hour before the assault on the deceased (T. 352), by his friend Vivian Nickerson and another man Kenneth Crowell (T. 861, 862, 938). The trunk of the car was defective and could be opened without a key (T. 881).

The only state witness who saw a man leave the Brown house at the approximate time of the homicide did not identify Mr. Adams as that person, even though the witness conversed with the person he saw. In fact, he said that person was blacker than Mr. Adams (T. 366) and had no mustache (T. 361). [Yet the police testified that just one day after the witness conversed with this person, Mr. Adams had a mustache (T. 714-15).] The witness had heard a woman's voice from inside the house before seeing the man exit (T. 365).

Both the state and the defense presented evidence showing that on November 12, 1973, Mr. Adams was in the process of moving back to his wife's house from a friend's house where he had been staying during a short separation (T. 634). Mr. Adams testified that he transferred his belongings from the friend's house to his car and then to his wife's car (T. 865). In his wife's car, which was searched after Mr. Adams was arrested on the instant charge, were found several items identified as belonging to Edgar Brown or members of his family (T. 648, 808, 810, 812, 816, 822).

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Mr. Adams had $185 on his person at the time of his arrest on November 12, 1973, mostly in ten and twenty dollar denominations (T. 580). Various witness for the State testified that the deceased always carried between $700 and $1500 in cash, usually in fifty and one hundred dollar denominations (T. 291-292, 455-456), which was missing when he was found (T. 815). One of the twenty dollar bills carried by Mr. Adams had O-positive blood on it.[3]

Throughout pretrial and trial proceedings, Mr. Adams consistently maintained his innocence and denied any involvement in or knowledge concerning the homicide of Edgar Brown. During the guilt-innocence trial, he testified in great detail concerning his activities during the time of the homicide, none of which put him anywhere near the Brown residence (T. 837-927). Prior to the imposition of his death sentence, after the trial judge asked Mr. Adams if he had anything to say, Mr. Adams responded, "all I would like to say one thing, Mr. Brown's murderer is still out there. I didn't do it." (T. 1192)

At the penalty trial, the state presented evidence that Mr. Adams had been convicted of the rape of a "white ... married lady" (T. 1171) in 1962 in Tennessee, and was sentenced to ninety-nine years in prison for that charge. Also introduced was testimony that Mr. Adams escaped from prison in 1973 while serving his sentence for the rape conviction (T. 1163-1174). The sole witness to these facts was Sheriff Cribbs of Dyer County, Tennessee, who was permitted to identify Mr. Adams using pictures and fingerprints taken at a Tennessee police station in 1956. No evidence was presented on behalf of Mr. Adams in mitigation of sentence (T. 1175).

In imposing a sentence of death, the trial judge found that that the "aggravating circumstances far outweighing any mitigating circumstances, are as follows:

> 1. The capital felony of murder in the first degree was committed by the defendant, James Adams, while he was under a sentence of

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[3] Mr. Brown's blood was identified as O-positive (T. 720), but the state's witness who typed Mr. Brown's blood conceded that at least 45% of the people living in the United States have such blood type (T. 722).

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> imprisonment for 99 years by the Court of General Sessions, Dyer County, Tennessee after a conviction on the charge of rape.
>
> 2. The defendant was previously convicted of a capital felony, same being the charge of rape above referred to and being a felony involving also the use or threat of violence to the person.
>
> 3. The capital felony of murder in the first degree was committed while the defendant was engaged in the commission of or in an attempt to commit the crime of robbery.
>
> 4. The capital felony of murder in the first degree was committed for the purpose of avoiding or preventing a lawful arrest.
>
> 5. The capital felony of murder in the first degree was especially heinous, atrocious and cruel.
>
> By his own admission the defendant was previously convicted of crimes on at least five occasions and the further undisputed evidence shows the defendant has a record involving crimes of violence; that he is an escapee of the State Prison System of the State of Tennessee and that the body of the victim was mutilated, mangled and disfigured unnecessarily.

(R. 84-85). On appeal, however, the Florida Supreme Court set aside the finding of two of the aggravating circumstances:

> The facts found by the trial judge support [only] the following [four] aggravating circumstances: (1) Adams committed the murder while under a sentence of imprisonment, specifically while an escapee from the State of Tennessee, where he had been convicted of rape and sentenced to ninety-nine years imprisonment; (2) Adams was previously convicted of a felony involving the use or threat of force to a victim; (3) Adams committed the murder during the course of a robbery; (4) the murder was especially heinous, atrocious, and cruel, the record reflecting that he murdered his victim by beating him past the point of submission and until his body was grossly mangled.

Adams v. State, 341 So.2d at 769.

(2) Doubt About Guilt in the Record

As these facts demonstrate, doubt about Mr. Adams' guilt infused the evidence presented at his trial. While the circumstances proven by the state tended to point to Mr. Adams as the killer, sufficient doubt was engendered by the state's own evidence that a genuine doubt remained as to whether the killer was Mr. Adams or someone else. Such doubt infected nearly all of the circumstances which pointed toward Mr. Adams as the killer.

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First, although Mr. Adams' car was identified as the car parked in the Brown's driveway at the time the homicide occurred, that fact alone suggested doubt that Mr. Adams was the driver of the car that day. The car was parked in the driveway in full view of anyone who passed by the residence or came in or out of the residence that morning. When Mr. Brown returned to his home from a visit to his nephew's house that morning (just before he entered the house and was killed), he spoke with one of his employees for several minutes with the car in full view (T. 323-324). Mr. Brown said nothing about this car to the person with whom he spoke. Thereafter, Mr. Brown drove within 10 to 15 feet of the car when he drove on past the car into the driveway. (T. 327). That the car was so highly visible and that Mr. Brown was not even moved to question his employee about whose car was in his driveway, suggests that the car may have been familiar to Mr. Brown. In any event, if James Adams had been planning a burglary or homicide, he would certainly not have parked his car at 10:30 in the morning in the driveway of the house which he intended to burglarize. Only someone who intended to set Mr. Adams up as the perpetrator of the crime would have done such a thing.

Second, the only person who had the opportunity to identify the killer was a man named Foy Hortman. Mr. Hortman drove into the Brown's driveway shortly before he saw and spoke to a person who left the Brown's house (T. 352-371). After Mr. Hortman drove up to the back of the Brown's house, and as he was getting out of his vehicle, he heard someone say in a woman's voice, "in the name of God, don't do it." (T. 355) Shortly thereafter, Mr. Hortman got back to his vehicle and began to leave when he saw a door open and a person came out of the Brown's house (T. 355-356). Mr. Hortman identified this person as a black man, about six feet tall, and 30 to 35 years old (T. 357-361). He further noted that this person had short hair and a "real slim face" (T. 364). Mr. Hortman further testified that he had seen a lineup which included Mr. Adams, and he had not identified Mr. Adams as this person (T. 367). Mr. Hortman testified that the person he saw exiting the Brown's house looked "blacker" than Mr. Adams and

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had no mustache (T. 361, 366). At trial, Mr. Hortman testified that he could not say that this person was Mr. Adams, nor could he say that it was not Mr. Adams (T. 368). Based on Mr. Hortman's failure to identify Mr. Adams as this person in the police lineup, his description of this person as "blacker" than Mr. Adams, and his description of this person as not having a mustache -- when Mr. Adams did have a mustache at that time (T. 714-715) -- a genuine doubt was created as to whether this person was Mr. Adams. Certainly, the person with the best opportunity to make that determination was unable to do so.

Third, the identification of Mr. Adams as the driver of the car seen at the Brown's house, as that car drove toward the house, and as that car left the house, also left some room for doubt. The person who identified Mr. Adams as the driver of the car enroute to the house testified that his basis for thinking that the driver was Mr. Adams was the following: "It had to be him, because he throwed up his hand at me, because everybody that passed there don't hardly wave at you unless you know him" (T. 398). This hardly amounted to a positive identification of Mr. Adams as the driver of the car.

On the other hand, the person who testified that he saw Mr. Adams driving the car away from the Brown's house, Willie Orange, did positively identify the driver as Mr. Adams (T. 376-377; 382). Even this identification has some room for doubt, however. At the time he identified Mr. Adams, Mr. Orange was driving a large fertilizer truck pulling a trailer loaded with 22 tons of fertilizer (T. 372-376). Mr. Orange testified that he saw the driver of the car as the car passed by him while he (Mr. Orange) was sitting in the cab of his truck (T. 376). Anyone who has ever been in the cab of a large truck that could pull 22 tons of fertilizer knows that he or she is sitting at a height considerably above the height of a passenger car. Moreover, because Mr. Orange was having to downshift his truck and steer it in order to avoid a collision with this vehicle, which was wobbling all across the road (T. 375), he simply could not have had an adequate opportunity to observe whether the driver was Mr. Adams or someone else.

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Fourth, the State presented evidence that at the time of his arrest, Mr. Adams had in his possession a roll of money in the amount of $185, most of which was in ten and twenty dollar denominations (T. 580). One of the twenty dollar bills in Mr. Adams' possession had a bloodstain on it which was the same type of blood as the victim's blood, O-Positive (T. 720, 734). While there were traces of blood on three other bills taken from Mr. Adams, these amounts were insufficient to type. Id. While the State suggested that this evidence proved that Mr. Adams had taken the money from Mr. Brown, there was simply too much doubt surrounding this evidence to establish this proposition. Mr. Adams testified that this amount of money was a combination of the remainder of a $200 loan from his employer, from some money he had saved, and from winnings in card games in recent days (T. 917). Mr. Adams' employer confirmed that he had loaned Mr. Adams $200 some time before the date of the homicide (T. 677-678). Moreover, the amount of money seized from Mr. Adams was far less than the victim was known to carry, which ranged in amount from $700 to $1,500 (T. 291-292, 455-456). The State presented absolutely no evidence that Mr. Adams had spent, concealed, or otherwise disposed of any large sum of money ($500 to $1,300) in the amount of time that elapsed between the homicide and his arrest. Finally, that a bloodstain on one of the dollar bills seized from Mr. Adams matched the type of the victim's blood proved nothing. As the serologist testified at trial, the bloodstain on that dollar bill not only matched the type of blood of the victim but also matched the type blood of 45% of the people living in the United States (T. 722). Further, even if this bill were stained with the blood of the victim, Mr. Adams reasonably could have obtained that bill in the card game he played with Vivian Nickerson after the homicide (T. 861-862).

Fifth, some genuine doubt was also created by the State's failure to submit certain significant evidence to the State Crime Laboratory for fingerprint analysis. The most significant items were a watch and two rings which were identified as having been removed from the room in the Brown's house in which the victim was found (T. 807-813). These items were removed from the trunk

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of the automobile which Mr. Adams was driving at the time of his arrest (T. 616-617). None of these items was sent to the Crime Lab for examination (T. 618).

Accordingly, although the circumstantial evidence presented by the state tended to point toward Mr. Adams of the perpetrator of the homicide, even the circumstantial evidence which pointed most clearly to Mr. Adams, detailed above, left genuine doubt as to whether Mr. Adams or someone else was the perpetrator.

(3) Doubt About Guilt Multiplied: The Evidence Not Presented

In recent weeks, a reinvestigation of the facts concerning the Edgar Brown homicide has been undertaken. In the course of that reinvestigation, we have discovered significant facts which were not presented at trial which create even stronger doubt about Mr. Adams' guilt. These facts include the following:

First, we now know that the testimony of Foy Hortman, the person who saw and described the apparent perpetrator of the homicide as that person left the Brown's house, was inaccurate. As we noted above, Mr. Hortman testified that he was unable to identify Mr. Adams in a lineup as the person he saw. However, he indicated that Mr. Adams may have been the person or may not have been the person. In fact, at the time of the lineup on November 13, 1973 (just one day after the incident), Mr. Hortman was much more certain that Mr. Adams was not the person he saw exiting the Brown's house. The notes of the St. Lucie County Sheriff's Department's personnel who recorded Mr. Hortman's response at the lineup indicate the following: "Foy Edgar Hortman, no I/D of any man in lineup positive no of these men involved." See Appendix L. Thus, at the time when Mr. Hortman's memory would have been the freshest, he was "positive" that Mr. Adams was not the person he had seen exiting the Brown's house. This is extraordinarily significant, not only from the perspective of excluding Mr. Adams as that person, but also from the perspective of excluding Mr. Adams as the driver of the vehicle whom witness Willie Orange had identified as Mr. Adams. Mr. Hortman made clear in his trial testimony that the person he saw leave the Brown's house got into the automobile parked in front of the Brown's house and left (T.

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testimony that the person he saw leave the Brown's house got into the automobile parked in front of the Brown's house and left (T. 358).

Second, Mr. Adams has consistently testified that he had nothing to do with the killing of Edgar Brown, and that the only person who had access to his automobile during the period of the homicide was Vivian Nickerson. Since Vivian Nickerson was at the time a fifteen-year old young woman, however, she would not seem to have met the description of the person who exited the Brown's house. Nonetheless, no photograph of Ms. Nickerson was ever shown to Mr. Hortman, nor was he ever asked to examine a lineup which included her. This omission could have been highly significant, for at that time and since, Ms. Nickerson met many of the features of Mr. Hortman's description, including height and size and complexion. Further, as photographs of Ms. Nickerson demonstrate (see Appendix M), Ms. Nickerson has a strikingly masculine appearance. Thus, even though Mr. Hortman identified the person whom he saw leave the Brown's house as a man, he could easily have mistaken Ms. Nickerson for a man. Moreover, were Ms. Nickerson the person whom Mr. Hortman saw, we could understand how Mr. Hortman heard a woman's voice in the house just before he saw the person exiting the house. Thus, the failure to ask Mr. Hortman to view Ms. Nickerson may well have prevented the positive identification of the perpetrator of the homicide.

Third, in light of Dr. Dorothy Lewis' examination of Mr. Adams recently, we now know that Mr. Adams has likely been suffering from psychomotor epilepsy since he was a teenager. As Dr. Lewis has documented, there have been times in Mr. Adams' life when this disorder has made him have blackouts, made him unable to remember events which have occurred, and made him unable to orient himself to familiar situations and places. (See Appendix D) Since Ms. Nickerson had been dating Mr. Adams for some time prior to the homicide (T. 859), she could very well have observed the symptoms of Mr. Adams' disorder and known that there were times when he could not remember what he had done or where he had been. Mr. Adams' condition, therefore, made him

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vulnerable to being blamed for a crime that he did not commit. And, Ms. Nickerson's likely knowledge of this vulnerability, made Mr. Adams the perfect camouflage for her crime.

Fourth, in order to corroborate his testimony that he had been continuously at the house of Vivian Nickerson between approximately 10:00 A.M. and 3:00 P.M. on the day of the homicide -- the homicide having occurred at approximately 10:30 A.M. -- Mr. Adams called Vivian Nickerson as his witness at trial. However, Vivian Nickerson testified that Mr. Adams did not arrive at her house that morning until "after 11:00" (T. 955). Thus, Ms. Nickerson not only failed to corroborate Mr. Adams' testimony, but actually undermined his testimony. Significantly, Mr. Adams' defense counsel did not demonstrate to the jury the incredibility of Ms. Nickerson's testimony at trial in light of her sworn testimony in a pretrial deposition on January 31, 1974. See Appendix N. In her deposition, Ms. Nickerson testified that once Mr. Adams came to her house to play cards, he did not leave until 4:00 or 4:30 in the afternoon. Appendix N at pages 5-6. She also conceded that after Mr. Adams got to her house to play cards, she borrowed his automobile to go buy another deck of cards. Appendix N at page 6. Finally, Ms. Nickerson testified in her deposition that "it was before" 10:30 A.M. that she borrowed Mr. Adams' car and that at that time, Mr. Adams was already at her house. Appendix N at page 7.

Fifth, there was "hard evidence" of Mr. Adams' lack of involvement which could have been presented at trial but which was not. Among the items of physical evidence sent to the Crime Laboratory for analysis was the following: "Hair removed from Mr. Brown's hand, by his wife, while in the ambulance enroute to the hospital. This hair was thrown on the floor of the ambulance, the ambulance was cleaned out, and the hair thrown in the trash can." See Appendix O. The person who submitted this evidence to the Crime Lab asked that the hair be compared to the

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known hair of Mr. Adams. Id. At trial, the deputy sheriff who transmitted this evidence to the Crime Lab testified as follows:

> Q: Do you recall receiving any hair from the ambulance?
>
> A: From the personnel, Yes, Sir.
>
> Q: What is the name of the person you received some of that hair from?
>
> A: I can't remember.
>
> Q: Did you submit that to the lab for testing?
>
> A: Yes, Sir.
>
> Q: And this was for comparison, was it not?
>
> A: Yes, Sir, it was.
>
> Q: It was to be compared with what other hair?
>
> A: The hair from the suspect.
>
> Q: Is this the hair that Mr. Adams gave you?
>
> A: Yes, Sir.

(T. 505-506). Upon examining the hair which the Sheriff's Department said was recovered from the victim's hand, the State Crime Laboratory determined that the hair could not have come from Mr. Adams. Appendix O. While the hair was "very dark brown, Negroid, [and] curly," Appendix O, the State Crime Lab excluded Mr. Adams as the source of that hair. This evidence was not presented at trial, but its clear import would have been to corroborate Mr. Adams'testimony that he had nothing to do with the homicide since, presumably, the hair found on the hand of the victim which was Negroid in origin would have been the hair of the perpetrator, who was known to have been a black person.[4]

[4] Mr. Adams raised an issue in his recent Rule 3.850 proceeding concerning the state's failure to disclose the results of the laboratory analysis of this evidence to defense counsel before trial. Defense counsel could not remember whether the lab results had been provided to him or not, but he had some recollection that he had found that the hair on Mr. Brown's hand was "a red herring" anyway. With this comment, defense counsel suggested that he would not have used the laboratory results if he had been provided them. In order to support defense counsel's theory, the state put on witnesses to suggest that the deputy sheriff who had recovered the hair had lied about its origin. [The deputy sheriff who collected the hair and sent it to the Crime Lab, Richard Browning, is now dead.] Under either theory, however, doubt about Mr. Adams' guilt is multiplied by these facts. If Deputy Browning had been telling the truth and had recovered the hair as he recounted, then the exclusion of Mr. Adams as the source of that hair, is "hard evidence" that he was not the perpetrator. If, on the other hand, Deputy Browning was falsifying his

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Sixth, we now know that Willie Orange, the only person who positively identified Mr.Adams as the driver of the car as it was leaving the area of the Brown's residence, had a reason to lie about his identification of Mr. Adams. Three witnesses have been found who heard Mr. Orange talking before trial about his motivation to testify against Mr. Adams. The first, Cleo Orange, who is his former wife, recounted the following:

> Some time just before the trial started, he [Willie Orange] came over to my house and told me he had heard that I was messing around with James Adams. He asked me if I was messing around with James Adams and I said no. My husband said "Well, he'll get what he deserves anyway."

Appendix P. The second, Jessie Washington, who was a co-worker of Mr. Orange at the time of the trial, recalled the following conversation with Mr. Orange after Mr. Brown had been murdered but before Mr. Adams' trial started:

> I recall on one occasion prior to the James Adams' trial, there were several people, including Willie Orange, standing around talking. Willie Orange stated that James Adams had been messing around with his wife, Cleo.

Appendix P. The third, a person named, Ward Lesine, was engaged in a conversation by Willie Orange on the day that Mr. Adams' trial started in which the following took place:

> I was in the St. Lucie County courthouse the day James Adams' trial was to start because I was a witness. Willie Orange came off the elevator with Mrs. Brown. I was sitting on the bench and Mrs. Brown and Willie Orange came up to me. Mrs. Brown asked me if I had known Mr. Brown and I told her I did not. Willie Orange said to me "I'm going to send him because he's been going with my wife." I understood him to mean James Adams. He also said "He'll never walk on land again." "I'll bet he never gets this yellow woman again." I knew he meant his wife because his wife was light-skinned. All of this occurred before James Adams' trial started.

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that hair, is "hard evidence" that he was not the perpetrator. If, on the other hand, Deputy Browning was falsifying his report about this evidence, then everything that Deputy Browning did in connection with this case -- which involved the collection of all physical evidence including, critically, the evidence from the car in which Mr. Adams was arrested, is subject to question. Most critically, whether Deputy Browning had a role in falsifying or planting other evidence, for example in the car, is a critical doubt about guilt raised by the State's version of the significance of this hair evidence.

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Appendix P. What Willie Orange said to these three people strongly draws into question his truthfulness in his identification of Mr. Adams as the driver of the vehicle which he saw speeding away from the Brown's house on the day of the homicide. Moreover, we asked Willie Orange to submit to a polygraph examination concerning the subject matter of his testimony and concerning his motive for giving untruthful testimony against James Adams, and he agreed to do so. He showed deceit in all of his answers. <u>See</u> Appendix Q. Accordingly, the only positive identification of Mr. Adams as the person present at or near the Brown's house at the time of the homicide was untruthful.[5]

Seventh, on the basis of information now known about Mr. Adams' prior criminal record, we now know that the prosecutor substantially misguided the jury when he argued "[Mr. Adams] is an experienced criminal who has lied to save his own skin." If the jury had known the truth about Mr. Adams' criminal record, they certainly could not have accepted the prosecutor's characterization of Mr. Adams as "an experienced criminal."

In sum, had all of the evidence raising doubt about Mr. Adams' guilt been submitted to the jury, there would have been at least a reasonable doubt about Mr. Adams' guilt. The evidence would have shown that the only person who had the opportunity to observe the perpetrator was "positive" that Mr. Adams was not that person. The evidence would have shown that Willie Orange's identification of Mr. Adams as the person driving away from Brown's house was wholly unbelievable because of his stated motive to "get" James Adams. The evidence would have shown that a specimen of hair asserted by the investigating deputy to have been recovered from the hand of Mr. Brown in the ambulance after the assault against him could not have come from James Adams. Even if the deputy's assertion were discredited, the integrity

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5 At trial, defense counsel attempted to raise the same question concerning the credibility of Mr. Orange's testimony. In his opening argument, defense counsel stated, "We intend to show that Willie Orange knew Mrs. Adams, James Adams' wife, that Willie Orange knew James Adams, and that Willie Orange knew that James Adams' wife -- that James Adams was going out with his wife" (T. 833). Despite this assertion in his argument, defense counsel presented no evidence to support this assertion, although that evidence was clearly available.

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of the remainder of the physical evidence supposedly pointing toward Mr. Adams would have been drawn into substantial question. Had the jury been told about Vivian Nickerson's sworn testimony less than two months before James Adams' trial which unequivocally corroborated Mr. Adams' testimony that he was continuously at Ms. Nickerson's house from before the homicide until well after the homicide, the jury would have been more likely to suspect Vivian Nickerson as the perpetrator than James Adams.

Once again, therefore, in a case in which his life hung in the balance, the criminal justice system short-changed James Adams. Much of the evidence which suggested genuine, substantial doubt about his guilt was not presented. Had it been, there can be no dispute that there would have been reasonable doubt about his guilt, and he would not be applying for clemency today. Once again, James Adams was the easy target. His prior criminalization, his vulnerability to being set up, and the lack of presentation of the best evidence that he did not kill Edgar Brown combined to deprive him of yet another fair trial.

(4) Race Discrimination Culminated: Mr. Adams' Death Sentence

Perhaps it should come as no surprise that a trial in which there was so little concern for the truth would be followed by a penalty proceeding in which there was no regard demonstrated for the life of the defendant. If that is the case, then Mr. Adams' penalty trial was no surprise. In that stark, brief drama, all of the unfairness, all of the racism, and all of the disdain for the worth of the life of a single black man came into focus.

At that trial, the State presented evidence that Mr. Adams had been convicted of the rape of a "white ... married lady" (T. 1171) in 1962 in Tennessee, and was sentenced to ninety-nine years in prison for that charge. There was no objection that the race of the victim of that alleged crime was wholly irrelevant to the sentence determination in Mr. Adams' Florida trial. There was no objection that this testimony was designed solely to inflame the racial passions of the jury in Florida in order to encourage them to sentence Mr. Adams to death for the homicide of a powerful white man. And yet, the testimony went on. The State

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introduced testimony that Mr. Adams had escaped from prison in 1973 while serving his sentence for the rape conviction (T. 1163-1164). Nothing was presented by the defense to show why, and under what great duress, Mr. Adams escaped. Nothing was presented on behalf of Mr. Adams to show that the escape involved no violence, but simply involved driving a truck which he had been permitted to drive, beyond the boundaries of his prison. No one bothered to point out that the racist, unfair rape conviction for which Mr. Adams had given ten years of his youth, was threatening to take the rest of his life behind bars. And perhaps the judge and the prosecutor should not have been surprised under these circumstances when, at the close of the State's case, Mr. Adams' defense counsel indicated that he had no evidence to present:

> THE COURT: You're resting your case?
>
> MR. FORD [the prosecutor]: Do you have nothing to offer?
>
> MR. SHOPP [the defense attorney]: We have no evidence.

(T. 1175).

Nor would the racism and the denial of a fair trial end here. Just a few moments later, the prosecutor summed it all up for the State of Florida when he urged that Mr. Adams be sentenced to death because he dared to escape from prison in Tennessee and come to St. Lucie County to kill a powerful white citizen:

> [Mr. Adams] was only out of jail, after he escaped, less than one year before he chose to come to this county to kill Edgar Brown, a long-time resident here, a man that had been married for forty years, an ex-chief deputy, a prominent man, a man that had contributed a lot to our county, had lived here all his life. This man came here from Tennessee to do this to one of our people.

(T. 1179). And finally, in defense of Mr. Adams' life, defense counsel could muster no more than the following one-minute argument for a man whose life had been unfairly devastated by a racist criminal justice system for thirty years.

> Ladies and Gentlemen, you have heard all the evidence and you have found James Adams to be guilty of first-degree murder. I understand how Mrs. Brown felt during her testimony recalling the testimony in which she saw her husband lying there in the condition he was. I

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> understand Mr. Brown's reputation in the community. I think you understand the situation. You have heard all the evidence. The only thing we can ask you here today is to consider whether or not the death penalty is appropriately in this case. Now, the Florida Legislature has declared in its infinite wisdom that the death penalty is a proper judgment in some cases, and the State is allowed to introduce evidence to show why it believes that here today is a case where you could appropriately advise the court that this man should be put to death and yet I find it necessary to ask for you to consider that you save his life in spite of all this and let this man live, for no other reason than that he is a man. Thank you.

(T. 1180).

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Conclusion

In St. Lucie County, Florida in 1974, history repeated itself. A history that began in Tennessee with the theft of a pig for food, that continued through an unjustified and racially motivated conviction for rape, that continued thereafter through a ten-year exemplary prison record giving rise to dreams of freedom that were crushed by the racist hand of the system which sent him to prison to start with, was fittingly culminated in a trial in which the innocence of the defendant was ignored and the worthiness of the defendant to live was never mentioned. History will continue to repeat itself even if the State of Florida kills James Adams. There have been many others like James Adams in this state. There will be more in the future, unless someone says no. Saying no to racism and to unfairness, are popular things to say. Stopping racism and unfairness may be more difficult. Now is the time to undertake what is difficult. Please say no.

Respectfully submitted,

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