IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

WILLIAM JASON TEETS) PETITIONER,) Vs.) RICKY D. DIXON OF) THE FLORIDA DEPARTMENT) OF CORRECTIONS,) RESPONDENT.) _____)	CASE NO.: 8:18-CV-02992-SDM-JSS

PETITIONER'S REPLY

Petitioner, WILLIAM JASON TEETS, PRO SE, comes now before this Honorable Court and replies to the State's Response, dated July 11th, 2022.

The State's Response is 25 pages and was received by Petitioner on July 13, 2022. However, the Record on Appeal and the State's Exhibits were not received until July 16, 2022. Neither the Record on Appeal, nor the State's Exhibits provided to the Petitioner are paginated, consisted of a copy impression on both sides of the included, unnumbered physical pages making it impossible to properly cite the record in the Petitioner's reply much less have citations be in agreement with any Record provided to this Court for its review. It is Petitioner's intent, therefore, to use the citations provided in his Amended Petition and the instant Reply, as if said citations were attached exhibits, incorporating all into the record. Due to the time limitations set upon the Petitioner, Petitioner relies on this Honorable Court's previous ruling, allowing Petitioner to cite to the Record on

Appeal as provided by the 10th Circuit Court of Polk County, Florida, Clerk of Courts – Case # 12CF-5644, filing date 6/27/2012. (*See ORAL ORDER, signed and dated March 7th, 2022, by the Honorable Judge Julie S. Sneed).

REVIEW OF STATE'S RESPONSE

As best as Petitioner can decipher from the State's Response, the State's Response boils down to the following:

PETITIONER'S LISTING THE ATTORNEY GENERAL OF THE STATE OF FLORIDA AS A RESPONDENT.

Petitioner agrees with the State, this is a scrivener's error on Petitioner's part, he voluntarily withdraws the Attorney General as a Respondent in the instant case. The proper Respondent as the State Attorney General points out in their Response is the Secretary of the Florida Department of Corrections – the State Attorney General being FDOC's legal counsel of record.

TIMELINESS OF FILING INSTANT PETITION.

As the State confirms, "the instant petition is NOT untimely by Respondent's calculations." Thus, the Petitioner has met the timeliness requirements.

ASSERTATION OF ACTUAL OR FACTUAL INNOCENCE.

In the interest of brevity and acknowledging that a "claim of actual or factual innocence" is a *separate claim* which the Petitioner may file, Petitioner thus strikes any verbiage of the word or reference "actual or factual innocence" from his Amended

Petition. The intent of the instant petition – as properly stated in Petitioner's Amended Petition on Pg. 23 – 24, his claim is based on a "miscarriage of justice", on the grounds of an unlawful conviction. Violating his federal due process rights under the Fifth and Fourteenth Amendments of the United States Constitution and per Jackson v. Virginia, 443 U.S. 307 (1979).

STATE'S ASSERTATION THE INSTANT PETITION IS A "STATE CLAIM" AND NOT GOVERNED BY NOR REVIEWABLE BY A FEDERAL COURT, SUCH AS THE INSTANT PETITION FOR HABEAS CORPUS.

The State attempts to persuade this Honorable Court that the unlawful conviction which the Petitioner has described, is in some way, NOT protected by the Federal, i.e., the United States Constitution and thus is only cognizable in a State action or jurisdiction.

The State misunderstands or misapplies the laws governing this very action. As clearly stated in Petitioner's Amended Petition, see pages 24 – 25, Petitioner cites as follows:

The Due Process Clause of the United States Constitution prohibits the criminal conviction of any person except upon sufficient proof of guilt of every element of the charged offense beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307 (1979); In re Winship, 397 U.S. 358 (1970). It thus remains axiomatic that, "it would not satisfy the [U.S. Constitution] to have a jury determine that the Defendant is probably guilty." Sullivan v. Louisiana, 508 U.S. 275, 278 (1993).

Indeed, it is well settled that habeas relief is mandated if after viewing the evidence adduced at trial, in the light most favorable to the prosecution, it is found that no rational trier of fact could have found proof of guilty beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307, 324 (1979). As Justice Stewart held:

> A federal court ***must*** entertain a claim by a state prisoner that he or she is being held in "custody in violation of the Constitution or laws or treaties of the United States." Under the In Re: Winship decision, it is clear that a state prisoner who alleges that the evidence in support of his state conviction cannot be fairly characterized as sufficient to have led a rational trier of fact to find guilt beyond a reasonable doubt ***has stated a federal constitutional claim***. Thus, assuming that state remedies have been exhausted and that no independent and adequate state ground stands as a bar, it follows that such a claim is cognizable in a federal habeas corpus proceeding.

Accordingly, in a habeas corpus proceeding such as this, a claim that the Petitioner has been convicted in state court upon insufficient evidence rests on the Due Process guarantee "that no person shall be made to suffer the onus of a criminal conviction except upon sufficient proof-defined as evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every other element of the offense." Jackson.

In following this guidance, federal courts have *consistently* held that a Defendant's conviction is constitutionally infirm and *must* be vacated if attacked on a federal habeas corpus petition where no rational trier of facts could have found the Defendant guilty beyond a reasonable doubt. Bowen v. Kemp, 832 F.2d 546 (11th Cir. 1987) (evidence was insufficient to establish that Defendant personally inflicted victim's fatal stab wound to sustain conviction for aggravated murder).

As such, the instant petition is proper.

STATE'S ASSERTATION THAT THE INSTANT PETITION IS "UNEXHAUSTED AND PROCEDURALLY BARRED."

The State now asserts that the instant petition is "unexhausted and procedurally barred", as Teets did not "fairly present the [federal] constitutional dimension of his ground".

This assertation likewise is unjustified. In multiple pre-trial filings as described in Petitioner's Amended Petition and then in both the First and Second jury trials, the Petitioner moved for Judgements of Acquittal, orally and in writing, both at the close of the State's case and the close of jury trial, based on insufficient evidence – which at its most basic element is a Due Process guarantee - and cited controlling legal authorities and constitutional protections of both State and Federal Constitutional rights. Further, in the Petitioner's Direct Appeal, contrary to the State's assertation, these very same arguments were reaffirmed and alleged, citing *both* State and Federal Constitutional Violations and applicable case law. Petitioner would ask then, what is the point of citing Federal case law, if not to invoke both the State and U.S. Constitutional rights a citizen of these United States has.

Additionally, in a direct self-contradiction of the above argument, the State now concedes: "Petitioner **did** argue that under the Due Process provisions of both the [State of] Florida and United States Constitution, the state failed to meet its burden of proving beyond a reasonable doubt each element of the case. In doing so, he cited In Re: Winship, 397 U.S. 358 (1970); U.S. v Moreland, 665 F.3d 137 (5th Cir 2011)."

As found in the "Constitution of the State of Florida", under Article I – Declaration of Rights, Section 9 is Due Process of Law. Section 9 states:

> **"DUE PROCESS – No person shall be deprived of life, liberty or property without *due process of law*……."**

This basic fundamental right follows the findings of well settled federal case law, such as Jackson v. Virginia, 443 U.S. 307, 324 (1979); In re: Winship, 397 U.S. 358 (1970); California v. Trombetta, 467 U.S. 479 (1984) and U.S. v Mooreland, 665 F/3d 137 (5th Cir. 2011). All involving DUE PROCESS OF LAW VIOLATIONS. It is insincere and offensive to argue in the alternative that because some kind of "magic phrase" was not invoked by one's lawyer, a citizen somehow loses his or her federally protected constitutional rights.

In Mulinx v. Sec'y, Dept. of Con., 254 Fed. Appx. 763 (11th Cir. 2007), the court found:

> "Florida courts assess the sufficiency of the evidence used to convict criminal defendants under a legal standard **identical** to the one used by federal courts in deciding federal due process challenges to the sufficiency of the evidence. In assessing the sufficiency of the evidence, Florida courts review whether, after viewing the evidence in the light most favorable to the State, a rational trier of fact could have round the existence of the elements of the crime beyond a reasonable doubt. Simmons v State, 934 So.2d 1100, 1111 (Fla. 2006). This is **identical** to the federal standard for reviewing due process challenges based on the sufficiency of the evidence, as set forth in Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789 (1979) (standard is "whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt"). Emphasis added.

Further, the Supreme Court held in In Re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 1073, 25 L.Ed.2d. 368 (1970), that "the Due Process Clause protects the accused against

conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charge". The Supreme Court later extended Winship to the habeas context, holding that a prisoner challenging a state criminal conviction under 28 U.S.C. 2254 is entitled to habeas corpus relief under the Due Process Clause when the evidence adduced at trial was insufficient to permit a rational trier of fact to find proof of guilt beyond a reasonable doubt. Jackson, 99 S.Ct. at 2791-2792.

To the extent any appeal to the highest court in the land was not pursued, as the state acknowledges, such has long since been time barred and thus is mute.

STATE'S ASSERTATION THAT THE JUDGMENT OF ACQUITAL AND FACTS ADDUCED IN THE FIRST TRIAL ARE IRRELEVANT AND ONLY THE JUDGMENT OF ACQUITAL AND FACTS ADDUCED IN THE SECOND TRIAL SHOULD BE CONSIDERED IN THE INSTANT PETITION.

The State argues that "there is but one judgment before this Court", that being the "evidence presented and the jury's verdict entered at Petitioner's second trial". The State additionally argues that Petitioner is attempting to "conflate the evidence presented at his first trial".

The first trial is key to many exculpatory facts that, in the instant case, in reviewing a motion for Judgment of Acquittal and for that purpose, "admits not only the facts stated in the evidence, but also every reasonable conclusion favorable to the State that a jury might *fairly* infer from the evidence", must be taken into consideration.

While "admitting facts stated in evidence", this means, not just some of the facts that seemingly appear to be inculpatory, but those adduced at trial that *are* exculpatory, even though inconvenient and problematic to the state's case.

The State argues that the first trial rulings are irrelevant as there is only "one" judgment. This argument fails logic. There could not have been a second trial without a first. Thus, the rulings on the Judgements of Acquittal of the first trial are reviewable. Had the lower court ruled in favor of the Petitioner's motion for Judgement of Acquittal, there would be no second trial.

One must ask, how is it that there were 3 devices alleged to contain contraband images for a total of 67 counts, for which a judgement of acquittal was granted in part on 30-counts and the jury was unable to reach a verdict on the remaining 37-counts, in the first trial. Yet in the second trial only one device survived with 6-counts, only for the jury in said trial to unlawfully find the Petitioner guilty. What the State alleges are "conflated facts" is code for "exculpatory facts".

While the State argues there is but "one" judgment, the sentence is not being attacked. The rulings on the Judgments of Acquittal are. The Judgments of Acquittal in *both* the first and second trial are reviewable. If the Judgment of Acquittal was granted by the lower court, as should have been, there never would have been a second trial in which a jury received for its deliberations, a case that the facts were legally insufficient to "find guilt beyond a reasonable doubt", and thus the case should have never been given to the jury.

STATE'S ASSERTATION THAT SUFFICIENT EVIDENCE WAS ADDUCED AT BOTH TRIALS TO SATISFY THE DUE PROCESS REQUIREMENT OF FEDERAL LAW.

Finally, we now arrive at the State's argument that the evidence adduced in both trials was legally sufficient to sustain a guilty finding by a jury. Petitioner's record is voluminous and intentionally so. Petitioner believes that while both the parties may cite to the record, he prays this Honorable Court will perform its own due diligence review of the facts and record. Therefore, Petitioner merely summarizes below his position and pleadings which are more amply developed in his Amended Petition:

(1) The State has failed to prove that the Petitioner was in unlawful possession of contraband images.

Specifically, the testimony adduced at both the first and second trial showed only that the device in question previously owned by the petitioner, was in the exclusive possession and control of a third party, the pawnshop, at which time contained files which were alleged to be contraband.

Even if the Court views the evidence in the light most favorable to the State and stipulates that images were contraband, the State proved neither the Petitioner's knowing possession of, nor dominion and control over contraband images found in sub-folders on the cell phone, by the petitioner.

We need not look any further than the State Attorney, Jacob Orr's own statement to the Tenth Circuit Court during trial, an exchange which indicates that **both** the

prosecution **and** the trial court judge were aware of the failure of the evidence to meet the requisite standard:

> TRIAL COURT: "Do you have any proof he looked at these" [contraband images]?
> THE STATE ATTORNEY: "No".
> (T-249:16-250:5)

> COURT: "Well, I think the purpose for the objection is the way – you could have asked about image of scenery as a proof that he looked at any other images…"
> SA ORR: "I don't [have] any proof of that."
> COURT: "What?"
> SA ORR: "I don't have that proof….." (T-249:10-16).
> SA ORR: "I don't have anyway to prove he looked at that [contraband]."
> (T-249:21-22).

To prove that the Petitioner viewed or had dominion and control over the actual files the State would have to establish that he looked at them or he put them on the phones. At no time has there ever been a prima facie showing demonstrating that such was the case and the above exchange reinforces that the State and the Court knew this.

(2) The State acknowledged file creation by third parties (the pawnshop) while the devices were outside the Petitioner's possession and control.

Petitioner again directs the Court's attention to the following testimony indicating that law enforcement and the State were well aware, *weeks* in advance of petitioners arrest of not just the problematic nature of this case, but the exculpatory facts which nullified any argument of constructive possession:

MR. TEETS: "Were you aware of these 85 downloads [while the phone was in pawn]."

HARVILL: "Well, they are in the forensic report, so yeah." (R-616, deposition pg. 22:25 to pg. 23:1)

MR. TEETS: "Ok, was that phone being used while it was in the pawn shop according to that phone pawn contract."

HARVILL: "According to the dates and times on the back it would appear so." (R-616, deposition pg. 25:6-9)

In the rush to conviction, the State deliberately avoided any fact-finding or investigation which might upset the precarious foundation they were trying to construct for the appearance of guilt. When asked why she interviewed neither the pawn shop owner (who, upon default of the pawn contract became the legal owner of the devices) nor his employees who had had access to the device in question for upwards of a year while the Petitioner did not, PCSO Det. Harvill, both lead investigator and forensic analyst put it rater infelicitously: "So answers were already being made, so I didn't need to go and talk to him." (See Harvill Deposition of June 12, 2015)

(3) The State knowingly presented as "evidence" forensic data its own expert witness acknowledged to have been corrupted in the course of her forensic examination.

The record establishes the complete unreliability of the State's own forensic evidence in light of the evidence tampering – whether purposeful or accidental – **by the State's own forensic expert** resulting both in corruption of key metadata (i.e. file dates to

be used in timelines alleging periods of possession by the Petitioner) and outright creation of entirely new files.

Under direct examination during the trial of August 29, 2016, Det. Harvill testified that the three dates on which data was altered and on which the devices were in the exclusive custody of PCSO were the same dates the devices in question underwent a forensic examination by law enforcement:

> ASA ORR: What happened on those dates?
> DET. HARVIL: "Forensic examinations" (T-246:5-6)

> ASA ORR: "So were there mistakes in the investigation and the extraction? Did Detective Harvill do something she shouldn't. Maybe. Sure. " (T-389:12-14).

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Petitioner now briefly addresses this Honorable Court as a Pro Se litigant, a layman. I have no formal training in legal matters of any kind. Petitioner kneels before this Honorable Court and prays for this Court's judicious review of the instant case. Petitioner has fought this unlawful conviction for over ten years and has done all he knows to do, to present as broad a factual and legal basis as possible to this Honorable Court for its considered deliberation. Pray god Petitioner has moved and empowered this Court properly.

RELIEF REQUESTED

For the reasons set forth above, this Court should grant the petition herein.

WHEREFORE, Petitioner prays that this Court:

(A) Vacate the unlawful conviction of Petitioner; or in the alternative,

(B) Grant a hearing on this matter, and if applicable;

(C) Grant any such other and further relief as this Court may deem just, proper and equitable.

DECLARATION

I, William Jason Teets, Pro Se, the Petitioner, do hereby declare under penalty of perjury, that he is the person named as Petitioner herein, and who executed the above and foregoing "Reply". That he has read said Petition, its references, incorporated into the record, citations as found in the record and believes that each and every allegation contained here within and to the record are true and correct, and "attests to its truth unqualifiedly".

JURAT 28 U.S. CODE

In accordance with Federal Statutes, executed at 2839 Delrose Drive North, Lakeland – Polk County, Florida. On this 3rd day of August, 2022.

WITNESS: _____ PETITIONER: _____

NAME: SAMUEL OKLESH NAME: WILLIAM JASON TEETS

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail to 1) SAM M GIBBONS UNITED STATES COURTHOUSE – TAMPA DIVISION – CLERK - 801 North Florida Avenue Tampa, FL. 33602. And to Assistant Attorney General, Mrs. Tonja Rook, via U.S. Mail to Concourse Center Four – 3507 E. Frontage Road, Suite 200 – Tampa, Fl. 33607-7013- On this 3rd day of August, 2022.

Respectfully Submitted,
William Jason Teets, Pro Se

BY: _____

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