

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

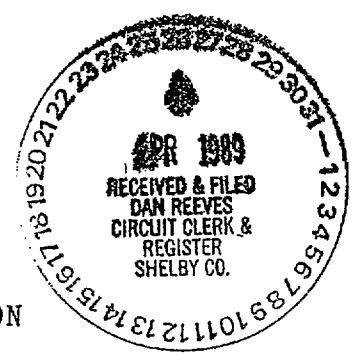
STATE OF ALABAMA,
Defendant,

VS.

PATRICK SWINEY,
Defendant.

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CASE NO: CC 88-077



MOTION FOR INDEPENDANT PHYSCIATRIC EXAMINATION

Comes now the State of Alabama, by and through its lawful Assistant District Attorney Robert E. Owens, Jr., and moves this Honorable Court to independently examine the above defendant based upon his plea of not guilty by reason of mental disease or defect. As grounds in support of this Motion the State sets out the following:

1. That the defendant has made or entered into a special plea of not guilty by reason of mental disease or defect.

2. That it is anticipated at trial that the defendant will offer expert testimony to enhance this position.

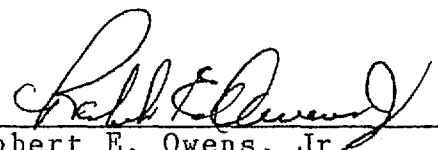
3. Provided said defendant makes a Prima Facie showing of the above-styled claim it would be incumbant at that time upon the Court to enter into an investigation regarding the effect of said testimony.

4. The Court has not only the duty but the right to direct the superintendent of state hospitals of the insane to make a report. The Court has the inherent right to seek these aids for advisory purposes. This premise of law is established in Campbell v. State 257 Alabama 322, 58 So.2nd 623, Howard v. State 178 So.2nd

May 12, 1989: Daniel [Signature]

520, Boulden v. State 79 So.2nd 20, Lokos v. State 179 So.2nd 714, as well as numerous other cases.

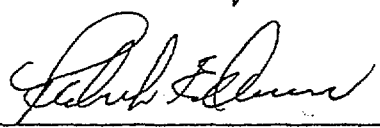
The State therefore request this Honorable Court grant the above-styled Motion. The State contends that it may become the duty of the Court to make this examination. It is at all times within the discretion of the Court and in the interest of fairness to make the above determinations. The Supreme Court has found numerous occasions to examine the trial court when the Court excercises its discretion not to grant the above-styled request, however, it does not question the authority of the Court to enter into this examination within its own authority.



Robert E. Owens, Jr.
Assistant District Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached document has been served upon Dick Bell, Bell, Maples, Roper & Assoc., 201-A Yeager Pkwy., P.O. Box 427, Pelham, AL 35124, serving as counsel for the defense by sending a copy of said document by United States mail, postage prepaid on this the 26 day of April, 1989.



Robert E. Owens, Jr.
Assistant District Attorney