

NOVEMBER 22, 1991

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA  
EIGHTEENTH JUDICIAL CIRCUIT

RONALD PATRICK SWINEY,	)	
	)	
PETITIONER,	)	
	)	
VS.	)	CASE NO.: CC88-77
	)	
STATE OF ALABAMA,	)	
	)	
RESPONDENT.	)	

MOTION FOR DISCOVERY AND PRODUCTION  
OF PROSECUTION FILES, RECORDS AND  
INFORMATION NECESSARY TO A FULL  
AND FAIR RULE 32 EVIDENTIARY HEARING

COMES NOW, the Petitioner Ronald Patrick Swiney, by and through his attorneys of record, Lawrence B. Sheffield, Jr., and Lawrence B. Sheffield, III, in the above-styled cause and pursuant to Rules 16 and 32 of the Alabama Rules of Criminal Procedure and the Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article I, §6, 15 of the Alabama Constitution (1901), and hereby moves this Honorable Court to Order the disclosure and production of the materials specified below. Petitioner additionally relies on Ex Parte Monk, 557 So.2d 832 (Ala. 1989), in which the Supreme Court of Alabama held that capital cases by their very nature are "sufficiently different" to justify broadened discovery.

Petitioner requests that this Honorable Court Order the individuals named below to disclose and produce for inspection and copying the documents and evidence specified herein, wherever such documents and evidence may be located, with such production to be

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arranged with undersigned counsel within thirty (30) days of the day that said discovery and production is ordered.

I. DEFINITIONS:

Unless the context indicates otherwise, the terms listed below are defined and used herein as follows:

1. The term "state" means any and all of the following organizations: the District Attorney's Office of the Eighteenth Judicial District of Alabama and the Shelby County Sheriff's Department. This includes (a) all present and former agents, officers, investigators, consultants, employees, and staff of these organizations; (b) any other person or entity acting on behalf of any of these organizations or on whose behalf such person or entity has acted; (c) any other person or entity otherwise subject to the control of any of these organizations.

2. "Document" or "documents" means any writing, record or data in any form or medium, whether or not privileged, that is in the state's actual or constructive possession, custody or control. As used herein, a document is deemed to be in the state's control if the state has a right to obtain a copy of it. "Document" also includes the original of any document in whatever form or medium it may exist, and all copies of each such document bearing, on any sheet or side thereof, any marks (including, by way of non-limiting example, initials, stamped indicia or any comment or notation of any character) not a part of the original text or any reproduction thereof. Examples of documents that must be produced include, but are not limited to, working papers, preliminary, intermediate or final drafts, correspondence, transcripts,

analyses, studies, reports, surveys, memoranda, charts, notes, records (of any sort) of meetings, diaries, telegrams, fax transmissions, reports of telephone or oral conversations, desk calendars, appointment books, audio or video tapes recordings, photographs, film, microfilm, microfiche, computer tapes, disks, printouts, press releases, newspapers, magazines and all other writings or recordings of any kind.

3. "Relating to" means discussing, describing, referring to, reflecting on, containing, analyzing, studying, reporting on, commenting on, evidencing, constituting, setting forth, considering, recommending, concerning, relevant to, bearing on, or pertaining to, in whole or in a part.

4. "All" means "any and all".

5. "Any" means "any and all".

6. "Each" means "any and all".

7. "And" means "and/or".

8. "Or" means "and/or".

9. "Record" means "document" as outlined in paragraph 2 above.

## II. INSTRUCTIONS:

1. References to the singular shall be construed to include the plural, and references to the plural, and references to the plural shall be construed to include the singular.

2. All verbs shall be construed to include all tenses.

3. If any document or portion of any document covered by

these requests is withheld from production, please furnish a list identifying each such document or portion, providing the following information with respect to each:

- (a) the reason(s) for withholding;
- (b) the date of the document;
- (c) identification by name, job, title and the last known business and home address of each person who wrote, drafted or assisted in the preparation of the document;
- (d) identification by name, job, title and the last known business and home address of each person who received or has custody of the document or copies thereof;
- (e) a brief description of the nature and subject matter of the document;
- (f) the length of the document;
- (g) a statement of the facts that constitute the basis for any claim of privilege, work product or other grounds of nondisclosure; and
- (h) the paragraph(s) of these requests to which the document is responsive.

4. Pursuant to Rule 16.3 of the Alabama Rules of Criminal Procedure, each request is continuing in nature and additional responsive documents that are obtained or discovered prior to the evidentiary hearing should be produced as soon as they are obtained or discovered.

5. If any document responsive to a request was, but no longer is, in your possession, custody, or control, state whether such

document (a) is missing or lost, (b) has been destroyed, (c) has been transferred to others or (d) has been otherwise disposed of. For each instance, explain the circumstances surrounding such disposition, identify each person who authorized such disposition, indicate the dates of such authorization and such disposition, and identify the document and each person or entity that may have or have had custody of or control over such document or any copy thereof.

6. If information responsive to a request appears on one or more pages of a multi-page document, produce the entire document.

7. Individual responses of more than one page should be stapled or otherwise separately bound, and each page consecutively numbered.

### III. DOCUMENTS TO BE PRODUCED:

#### Instructional Records

Petitioner moves this Court order that he be granted leave to inspect, copy, and photograph the following documents:

1. all records generated or maintained by the Shelby County Jail pertaining to Ronald Patrick Swiney, including but not limited to all disciplinary, medical, psychological, psychiatric, and mental health records;

2. all records generated or maintained by the Columbiana, Alabama, municipal jail, including but not limited to all disciplinary, medical, psychological, psychiatric, and mental health records;

3. all disciplinary, medical, psychological, psychiatric, and mental health records pertaining to Ronald Patrick Swiney generated or maintained by any medical provider at the Shelby County jail;

4. all records pertaining to Ronald Patrick Swiney generated or maintained by the Alabama Department of Corrections, including but not limited to disciplinary records, medical records, psychological, psychiatric and mental health records, and any other records generated or maintained by any prison, medical facility or any other entity associated with Alabama Department of Corrections;

5. all records generated or maintained by the Alabama Department of Mental Health and Retardation and pertaining to Petitioner;

6. all records generated or maintained by the Alabama Department of Human Resources and pertaining to Ronald Patrick Swiney;

7. all records pertaining to Ronald Patrick Swiney by Taylor Hardin Secure Facility in Tuscaloosa, Alabama, and any other state mental health facility;

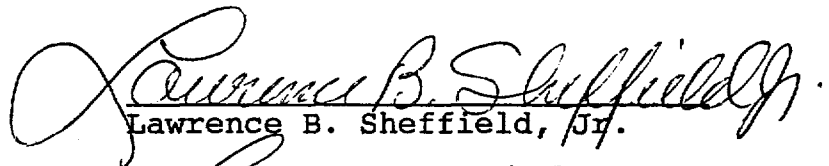
8. all documents generated or maintained by the Alabama Board of Pardons and Paroles and pertaining to Ronald Patrick Swiney; and;

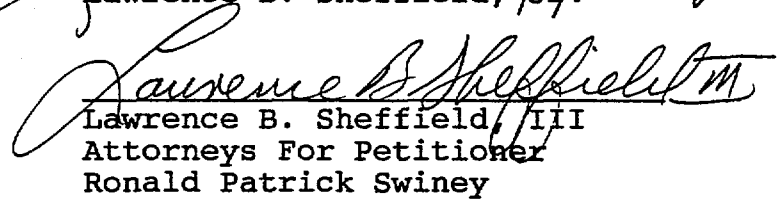
9. any and all medical, psychological, psychiatric, or mental health records of any kind as well as any such records generated or maintained by any physician, psychologist, psychiatrist, medical or mental health provider of any kind.

This motion is made under the authority of Brady v. Maryland, 373 U.S. 83 (1963) (Citations omitted); Ex Parte Monk, 557 So.2d 832 (Ala. 1989); United States v. Pitt, 717 F.2d 1334 (11th Cir. 1983); Rule 16 of the Alabama Rules of Criminal Procedure, and the constitutional and statutory provisions cited in the opening paragraph.

WHEREFORE, the Petitioner respectfully requests that this Court Order the production of the foregoing materials and grant leave to depose the above-referenced individuals.

Respectfully submitted,

  
Lawrence B. Sheffield, Jr.

  
Lawrence B. Sheffield, III  
Attorneys For Petitioner  
Ronald Patrick Swiney

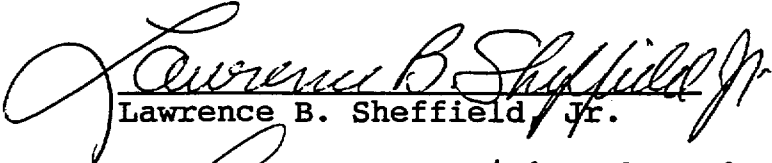
OF COUNSEL:

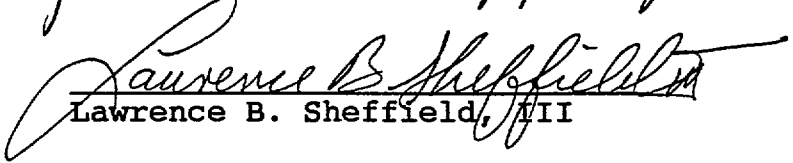
SHEFFIELD, SHEFFIELD,  
SHEFFIELD & LENTINE, P.C.  
730 Frank Nelson Building  
Birmingham, Alabama 35203  
(205) 328-1365

CERTIFICATE OF SERVICE

We hereby certify that we have served a copy of the above and foregoing Motion upon the Honorable Michael J. Campbell, District Attorney of Shelby County, Alabama, by placing a copy of the same in the United States Mail, postage prepaid and properly addressed

this the 22nd day of November, 1991.

  
Lawrence B. Sheffield, Jr.

  
Lawrence B. Sheffield, III