

October 22, 1996

In the United States District Court
For the Northern District of Alabama

FORM FOR USE IN APPLICATION FOR
HABEAS CORPUS UNDER 28 U.S.C. § 2254

CIVIL ACTION NUMBER:

(To be supplied by the Clerk of the District Court)

RONALD PATRICK SWINEY
Full Name of Plaintiff-Petitioner

HOIMAN UNIT, ATMORE, AL. 36503-3700
Place of Confinement

VS.

CHARLES E. JONES, Warden,
(Name of Warden, Superintendent, Jailer, or authorized
person having custody of petitioner)

and

THE ATTORNEY GENERAL OF THE STATE OF ALABAMA,
Respondents

(If petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 USC § 2255, in the federal court which entered the judgment.)

PETITION FOR WRIT OF HABEAS CORPUS BY A
PERSON IN STATE CUSTODY

INSTRUCTIONS -- READ CAREFULLY

- (1) This petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
- (2) Do not use this form unless you were convicted in one of the following counties: BIBB, BLOUNT, CALHOUN, CHEROKEE, CLAY, CLEBURN, COLBERT, CULLMAN, DeKALB, ETOWAH, FAYETTE, FRANKLIN, GREENE, JACKSON, JEFFERSON, LAMAR, LAUDERDALE, LAWRENCE, LIMESTONE, MADISON, MARION, MARSHALL, MORGAN, PICKENS, SHELBY, ST. CLAIR, SUMTER, TALLADEGA, TUSCALOOSA, WALKER, WINSTON.

- (3) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed *in forma pauperis*, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, *the original and two copies* must be mailed to the Clerk of the United States District Court for the Northern District of Alabama, 104 Federal Courthouse, 1800 Fifth Avenue, North, Birmingham, Alabama 35203.
- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

PETITION

1. Name and location of court which entered the judgment of conviction under attack
Shelby County Circuit Court
2. Date of judgment of conviction June 12, 1989
3. Length of sentence Life without Parole
4. Nature of offense involved (all counts) Capital Murder
5. What was your plea? (Check one)
 - (a) Not guilty ()
 - (b) Guilty ()
 - (c) Nolo contendere ()
 If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: N/A
6. Kind of trial: (Check one)
 - (a) Jury ()
 - (b) Judge only ()
7. Did you testify at the trial?
Yes () No ()

8. Did you appeal from the judgment of conviction?
Yes (XX) No ()

9. If you did appeal, answer the following:

(a) Name of court court of criminal Appeals // Alabama Supreme Court

(b) Result Affirmed ~~no~~ opinion // cert. denied

(c) Date of result 8/3/90 // 12/14/90

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes (XX) No ()

11. If your answer to 10 was "yes," give the following information:

(a)(1) Name of court N/A Shelby county circuit court

(2) Nature of proceeding petition for post-conviction relief, Rule 32, A. R?Crim. P.

(3) Grounds raised Several issues, including but not limited to Ineffective Assistance of Counsel; Court's erred in charging jury on intentional and reckless murder, when petitioner was charged with Capital Murder; Court's failure or refusal to allow defense counsel to voir dire veniremembers individually.

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes (XX) No ()

(5) Result denied

(6) Date of result 1/28/93

(b) As to any second petition, application or motion give the same information:

(1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes () No () N/A

(5) Result N/A

(6) Date of result N/A

(c) As to any third petition, application or motion, give the same information:

(1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes () No () N/A

- (5) Result N/A
- (6) Date of result N/A
- (d) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?
- | | | |
|--------------------------|---|---------------------------------|
| (1) First petition, etc | Yes (<input checked="" type="checkbox"/>) | No (<input type="checkbox"/>) |
| (2) Second petition, etc | Yes (<input type="checkbox"/>) | No (<input type="checkbox"/>) |
| (3) Third petition, etc | Yes (<input type="checkbox"/>) | No (<input type="checkbox"/>) |
- (e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not: N/A
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12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

Caution: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand jury or petit jury which was unconstitutionally selected and impaneled.
- XX (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.