

April 13, 1998

**IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MOTIONS

OF

RONALD PATRICK SWINEY

CIVIL ACTION 96-P-2823-S

TABLE OF CONTENTS

Page No.

MOTIONS OF RONALD PATRICK SWINEY

Motion in Opposition to Respondents Motion for 5-6
Summary Judgment

Alternative Motion for Appointment of Counsel 7-8

Motion for Order Directing Respondents to 9-10
Supplement Record

Exhibit #1 - Letter to Congressman Sonny Callahan..... 11-13

BRIEF IN SUPPORT OF RONALD PATRICK SWINEY

Motion in Opposition to Respondents Motion for..... 14
Summary Judgment

Exhibit #2 - Affidavit/Declaration of Ronald Patrick Swiney..... 15

Response to This Courts Order of March 24, 1998 16

Alabama's Rule 32 Preclusion Not Applicable 17-19

 Prejudice 20

 Cause..... 21

 Argument 22-36

Relief Requested..... 37

Declaration..... 38

Certificate of Service 39

Appendix..... 40

TABLE OF CONTENTS
(APPENDIX)

	<u>Appendix</u> <u>Page No.</u>
Court Order 3-24-98.....	A-B
Respondents' Answer to Supplement to Petition	C-H
Affidavit of Odelle Swiney	1-2
Affidavit of Michelle Kirven	3-4
Affidavit of Robbie Carter	5-6
Letter of Character - Police Department.....	7
Letter of Character - Police Department.....	8
Forensic Science Reports.....	9-13
Excerpt pg. 18 of Rule 32 Petition.....	14
Affidavits/Letters of Character	15-68A

TABLE OF CONTENTS

Page No.

LIST OF EXHIBITS

1. Letter to Congressman Sonny Callahan dated 2/25/98 11-13
2. Affidavit/Declaration of Ronald Patrick Swiney 15
3. List of Additional Letters and Materials Supporting 41-49 (Appendix)
Petitioner's Claim of Innocence and Character
4. Petition to Free Patrick Swiney 69-78 (Appendix)
5. Open Letter to Congress asking for Constitutional Protection 79-82 (Appendix)
6. Investigative Report prepared by National Police 83-105 (Appendix)
Defense Foundation's Chief Investigator, Dr. Boris deKorczak
7. Cassette Tape - Interview with Dr. deKorczak on 106 (Appendix)
Alabama local radio regarding Patrick Swiney's case

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

RONALD PATRICK SWINEY
Petitioner

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§
§

vs.

CIVIL ACTION NO. 96-P-2823-S

CHARLIE JONES, Warden:
ATTORNEY GENERAL FOR
THE STATE OF ALABAMA
Respondents

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§

MOTION IN OPPOSITION
TO RESPONDENTS MOTION FOR
SUMMARY JUDGMENT

Comes now the Petitioner, pro-se, and moves the Honorable Court to grant this Motion in Opposition to Respondents Motion for Summary Judgment, by denying this Respondents' motion for good cause shown:

1. This Court should deny Respondents' motion for summary judgment because;
 - a) Procedural rules are inapplicable in this particular case;
 - b) Petitioner is entitled to some form of redress on his claims set out in the enclosed brief in support;
 - c) Petitioner can establish both cause and prejudice;
 - d) Petitioner is innocent of the crimes charged.

2. Petitioner avers that the facts set out in the attached brief in support, and appendix thereto containing affidavits and other documents, establish that this Petitioner is entitled to a relief request by law.

Petitioner prays this motion be granted, so is prayed this 10th day of
April, 1998.

Ronald Patrick Swiney

Ronald Patrick Swiney

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

RONALD PATRICK SWINEY
Petitioner

§
§
§

vs.

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CIVIL ACTION NO. 96-P-2823-S

CHARLIE JONES, Warden:
ATTORNEY GENERAL FOR
THE STATE OF ALABAMA
Respondents

ALTERNATIVE MOTION
FOR APPOINTMENT OF COUNSEL

Comes now the Petitioner, pro-se, and moves the Honorable Court to grant this Alternative Motion for Appointment of Counsel for reasons set forth as follows:

1. This Petitioner is not knowledgeable of law or legal proceedings and must rely on others who are non-attorneys to assist in presenting these proceedings.
2. This being a Critical State in these pleadings, whereas the assistance of effective counsel for his defense would be a significant benefit, whereas without a State's Avenue of Redress and without a Federal Avenue of Redress, this innocent Petitioner will have no further opportunity to obtain justice, and his entire life will be forever lost at the hands of a lawless State Government which would have successfully incarcerated an innocent man in a lawless manner and not have to answer to anyone for their evil deeds.
3. This Petitioner avers that to deny assistance of counsel at this Summary Judgment state, and to grant the State's Summary Judgment without providing this Petitioner with effective assistance of counsel would be a gross injustice, equal only by electrocution of an innocent man for being unable to spell a word in Spanish.

4. Before this Court decides to grant Summary Judgment to the State, the Court should most seriously consider the effects it will have on an innocent man, and the dire need of the Petitioner for adequate representation at this most Critical State of these proceedings.

Petitioner prays this motion be granted in this Alternative of Granting Summary Judgment to the State to give this Petitioner a fair opportunity to adequately and properly oppose the State's Summary Judgment Motion.

So is prayed this 10th day of April, 1998.

Ronald Patrick Swiney

Ronald Patrick Swiney

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

RONALD PATRICK SWINEY
Petitioner

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vs.

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CIVIL ACTION NO. 96-P-2823-S

CHARLIE JONES, Warden:
ATTORNEY GENERAL FOR
THE STATE OF ALABAMA
Respondents

MOTION FOR ORDER
DIRECTING RESPONDENTS
TO SUPPLEMENT RECORD

Comes now the Petitioner, pro-se, and moves the Honorable Court to grant this Motion to Order Respondents to Supplement the Record before the Court as follows:

1. Petitioner's Habeas Corpus has been pending for two (2) years, during which time, Department of Corrections required excessive legal materials to be sent home or destroyed. Petitioner mailed records to his wife, and has no way to refer to certain pages of this record due to State's adverse actions, nor can Petitioner supply excerpts thereof.
2. Petitioner's wife sent the records to the National Police Defense Foundation to be digitized into their files for investigation and preparations.
3. Authorities at Holman Correctional Facility, being aware of the assistance in Petitioner's case by the National Police Defense Foundation, Dr. Boris deKorczak, and Petitioner's wife, Sherry Swiney, both have been removed from Petitioner's approved telephone list to stop communications without giving any just cause (see attached letter to Sonny Callahan - Exhibit #1).

4. Petitioner also noticed that the appendix supplied by Petitioner's last response did not have the Court-stamped number system of a completed record. It appears that the Respondents have not supplied this Court with a full and complete record of all State Court Proceedings as required by Bundy vs. Wainwright 808 F. 2nd, 1410, 1413 (11th Cir 1987).

— The Record Should Contain —

Trial transcript - trial records, motion for new trial, appeal briefs, relevant briefs, appeal Court decisions, writ-of-certiorari, Habeas Corpus and decision of Alabama Supreme Court Rule 32 petition, hearing transcript, appeal briefs, re-hearing, decision, writ-of-certiorari, re-hearing and decision of Alabama Supreme Court.

5. Petitioner being without a record at this time denies due process because he cannot point to specific instances, nor supply excerpts. If the Court has no State Court record - then it cannot evaluate any of Petitioner's claims, again violating due process of law.
6. Petitioner is purposely being prevented from adequately arguing on all of his claims under the Constitution of the United State's and is entitled to relief.

Petitioner prays this motion be granted, so is prayed this 10th day of
April, 1998.



Ronald Patrick Swiney