



White has presented a claim with new evidence not previously disclosed by the State to either trial counsel or postconviction counsel. Those claims are before this Court on their merits in the rule 3.850 appeal. The allegation that CCR has "more than fully" investigated this case is belied by the course of this case in the past several weeks since the undersigned counsel were assigned to represent Mr. White. Mr. White continues to receive new information to forward to his experts, and has continued to provide this Court with updates when new information becomes available.

2. It is difficult to fathom how counsel for Respondent/Appellee can aver that Mr. White's counsel have "more than fully investigated" this case when the actions of the State itself have impeded this investigation, and continue to do so. Counsel for Respondent/Appellee posits that "Chapter 119 was on the books when CCR first assumed representation of White in 1985, and that all of these matters could have been resolved earlier" (Response at 3). The truth is that 119 requests were made in 1985 and 1990, but, as the State, through Assistant State Attorney Paula Coffman, stipulated at the hearing below, the new evidence presented in Mr. White's 3.850 motion was not previously disclosed. Ms. Coffman's arguments below directly contradict the averments now being made by counsel for Respondent/Appellee. The State and the Respondent are bound by those representations. Counsel for Respondent/Appellee also argues that the appendix to the 3.850 motion contains the medical file from Florida State Prison. Given that Mr. Martell represents Secretary Singletary and the Department of Corrections, his ignorance of the difference between an inmate file and a medical file is disconcerting. What is contained in the appendix is Mr. White's inmate file, hence the identification of

those records as "Inmate File" in the index to the appendix. The DOC medical file is an entirely separate file containing medical, psychological, and other confidential information obtainable only with a release from Mr. White. As Mr. White's counsel correctly asserted in their pleading, they have yet to receive Mr. White's medical file because of the prepayment issue.

3. As to Claim IV, Respondent/Appellee contends that this claim "is unquestionably procedurally barred" (Response at 5). This contention has no basis in law or fact, and citation to Sullivan v. Askew, 348 So. 2d 312 (Fla. 1977), provides none. Mr. White's claim is that he is being denied equal protection because, unlike other individuals who, in the past two years, have been afforded the opportunity to present a clemency petition prior to consideration by the Governor of a death warrant, Mr. White was arbitrarily stripped of this right. This claim could not have been raised earlier because it is premised on the fact that in 1995, unlike other individuals in the past two years, Mr. White was not permitted to file a clemency petition before the signing of a death warrant. This violates equal protection.

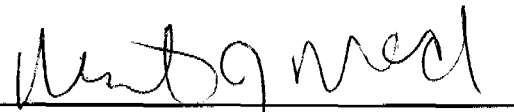
4. For each of the foregoing reasons, Petitioner Jerry White asks this Court to stay his execution, grant habeas relief and/or reopen his direct appeal and/or reopen his prior 3.850 appeal, vacate his unconstitutional death sentence, and grant all other relief which is just and equitable.

I HEREBY CERTIFY that a true copy of the foregoing Petition has been furnished by facsimile transmission and/or hand deliver to all counsel of record on **December 1, 1995.**

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