

IN THE SUPREME COURT OF THE STATE OF FLORIDA

NO. _____

ERNEST LEE ROMAN,

Appellant,

vs.

STATE OF FLORIDA,

Appellee.

APPEAL FROM DENIAL OF POST-CONVICTION RELIEF,
MOTION FOR STAY OF EXECUTION, AND MOTION FOR
STAY OF EXECUTION PENDING PETITION FOR WRIT
OF CERTIORARI

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This is an appeal of the trial court's denial of post-conviction relief. Most of Mr. Roman's claims were summarily denied. A limited evidentiary hearing was conducted regarding three claims. This brief addresses only one part of one of the claims for relief, a claim that was summarily denied -- the State's failure to reveal material exculpatory evidence regarding Mr. Roman's drunkenness at the time of the offense. See Claim V, page 106, of the record on appeal from denial of post-conviction relief (hereinafter "P.C.R."). Mr. Roman will file a brief tomorrow morning addressing the other claims for relief, but counsel is unable at this point effectively to brief those other issues, due to time constraints, money constraints, and responsibilities to other clients.

Mr. Roman hereby re-raises every claim raised below, and incorporates into this brief all matters heard in the proceedings heretofore conducted. He will file an amended brief addressing those other matters by noon, March 30, 1988.

ARGUMENT I

THE STATE'S FAILURE TO REVEAL EXCULPATORY
INFORMATION, PRESENTATION OF FALSE TESTIMONY,
AND FALSE ARGUMENT, VIOLATED MR. ROMAN'S
SIXTH, EIGHTH, AND FOURTEENTH AMENDMENT
RIGHTS

Three medical experts and some lay persons testified at trial/sentencing that if Mr. Roman was drunk at the time of the offense, many legal defenses and/or much mitigation became available to him. Because of Mr. Roman's life-long lay history of severe mental illness and chronic alcoholism, the experts opined that if he was drunk, he was insane. Naturally, drunkenness became the issue at trial.¹

While Mr. Roman's appearance and behavior before and after the offense would be critical circumstantial evidence of his degree of intoxication at the time of the

¹ The issue in this case is going to be the issue of what was the mental state of the defendant at the time That will be the issue in this case.

Opening statement by State (R. 462). Mr. Roman has substantial claims regarding his thirty-year history of suffering from schizophrenia and alcoholism, which will be explicated in his amended brief. This history, however, explains why it is that when he is drunk, he is legally incompetent, and so a synopsis of that history is appended to this brief as Appendix A. Appendix A was introduced as Exhibit 7 during the limited evidentiary hearing, and it was received as evidence.

offense, whoever saw Mr. Roman closest to the time of the offense would provide the most relevant evidence. There was conflicting evidence regarding his degree of drunkenness long before and long after the offense, and some conflicting evidence regarding drunkenness near the time of the offense.

However, the evidence that was most critical and relevant was the evidence from the one person who saw Mr. Roman, according to the State, nearest the time of the offense -- Arthur Reese. He was, according to the State, "one of the crucial witnesses in this case," Opening statement (R. 451), and he testified for the State that between 1:00 and 2:00 a.m., on March 14, Mr. Roman was not drunk. He testified for the State that Mr. Roman was sane. However, unknown to defense counsel, the jury, and this Court on appeal, Arthur Reese told the police right after the crime that Mr. Roman was in a stammering, stomping, drunken stupor at the time of the crime:

GALVIN: When you finally left Millie's trailer and went around to the camper where you sleep there's a, was Ernest there?

REESE: No sir.

GALVIN: Do you have any idea where he was?

REESE: No sir.

