

In The
Supreme Court of the United States

BRIEF AMICUS CURIAE IN SUPPORT OF

WILLIAM THOMAS ZEIGLER Petitioner

v.

State of Florida, Respondent

On Petition for a Writ of Certiorari
to the Supreme Court of Florida

Amicus Curiae

Leigh O. McEachern,
Former Under Sheriff, Orange County Sheriff Department
Raymond T. McEachern,
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TABLE OF CONTENTS

INTEREST OF AMICUS CURIAE.....3

SUMMARY OF ARGUMENT.....5

ARGUMENT

THE SIMILARITIES WITH THE MURDER OF JACOB REDDICK.....5

THE STATE’S ATTEMPT TO SUBORN PERJURY IN 1976.....6

THE STATE’S BLOOD SPATTER EXPERT WAS PREJUDICED.....6

THE STATE CHANGED ITS THEORY IN 2004.....7

CONCLUSION.....7

EXHIBITS AVAILABLE ON REQUEST

PARTIAL TRANSCRIPT OF DeMARS DEPOSITION.....EXHIBIT A

LETTER FROM STATE ATTORNEY ROBERT EAGAN.....EXHIBIT B

AFFIDAVIT OF ORLANDO WOMAN (name redacted)..... EXHIBIT C

WITHHELD POLICE REPORT FOUND IN 1989EXHIBIT D

PARTIAL TRANSCRIPT OF 2004 HEARING.....EXHIBIT E

LETTER FROM HERBERT MACDONELL.....EXHIBIT F

TRANSCRIPT OF TELEPHONE INTERVIEW.....EXHIBIT G

INTEREST OF THE AMICUS CURIAE

1. Leigh McEachern was Chief Deputy of Orange County in the 1970s. Leigh was present at the scene of the murders in the W. T. Zeigler Furniture Store in Winter Garden, Florida, the day after the crime. He was also a witness to Zeigler's arrest while Mr. Zeigler was still in the hospital recovering from a gun shot wound to the abdomen. Leigh has always believed there was a rush to judgment in the Zeigler case and that he was not given the benefit of a fair trial.

2. Raymond McEachern is the brother of Leigh McEachern. Raymond McEachern is a Citizen Advocate for Tommy Zeigler and has taken it upon himself to set up a web site, www.freetommyz.com which maintains the current details of the case. Raymond is a retired small business owner from Tampa who was one of the original members in 1960 of the U. S. Peace Corps. After his Peace Corps service, he was with the federal government in Washington, D. C. for several years before returning to Tampa. The McEachern brothers grew up in Plant City, Florida, and as children were frequent visitors with their grandfather to the 5000 acre Samsula, Florida, ranch of their grandfather's youngest brother, Jason Kersey.

3. Jason Kersey was well known in the community near New Smyrna Beach, Florida, as the Grand Dragon of the Ku Klux Klan during the fifties and sixties. While they were unaware of the Klan connection at the time, both brothers now believe that their great uncle may have financed the murders of two civil rights workers, Harry and Harriet Moore, whose house was firebombed on Christmas day in 1951.

4. The Moore murders may have played a role in the murders in the Zeigler Furniture Store in Winter Garden on Christmas Eve 1975 for which Tommy Zeigler was convicted in 1976. A report on the murders prepared by then Attorney General Charles Crist in 2004 concluded that, *"It is also possible that other members of the Klan, especially the Orlando and Apopka Klaverns, participated in the conspiracy to murder the Moores. The record shows Moore and his activities were discussed at several Klan meetings and members were not pleased with Moore's growing success at changing the existing political structure. While the murders may not have been officially sanctioned by the Klan and the perpetrators were considered "renegades," other members of the Klan definitely knew Moore was being targeted. It is also sadly evident that some members of area law enforcement were Klan members and/or sympathizers and may not have supported the FBI's investigation. The damage caused by that regrettable state of affairs is still evident today, as this investigation concluded that a number of witnesses were reluctant to be completely candid with this*

investigation for fear of retribution.”¹ (Emphasis added.)

5. Dave Starr, the sheriff of Orange County, Florida, for some 20 years, was a known member of the Ku Klux Klan. He left office in the early 1970's and retired to his home in Oakland, the town adjacent to Winter Garden on the west. Ocoee, adjacent to Winter Garden on the east, had been the scene of a race crime in the 1920's in which the homes of blacks were burned down over the issue of voting rights.

6. In the seventies, Tommy Zeigler was a highly successful furniture store owner in Winter Garden. Mr. Zeigler offered blacks credit at his store on equal terms with whites, and he was instrumental in the election of a new mayor of Winter Garden through his efforts to get out the vote in the black community. He also was encouraging his friend, the police chief of Winter Garden, to clean up a loan sharking racket that was exploiting the mostly black grove workers in west Orange. When a black Zeigler friend, bar owner Andrew James, was charged with a crime, Zeigler assisted him to find an attorney and testified as a character witness on his behalf at his trial in August 1975.

7. The presiding judge at Zeigler's trial in June 1976, Maurice Paul, had been an opposing character witness during the James trial which resulted in Mr. James keeping his bar and liquor license. In fact, Judge Paul had issued the search warrant that led to the James trial and even suggested to the prosecutor in that case that he issue a "subpoena instanter" so Judge Paul himself could be a character witness for the prosecution. Despite this, he refused to recuse himself from the Zeigler trial, and actually over-ruled the jury's recommendation of life in prison, sentencing Zeigler to death row less than a year after the James trial.

8. Orange County detective, Tom DeMars, was assigned by Leigh McEachern to investigate the loan sharking racket as the result of a Mr. Zeigler's allegation that the motive for the break-in and murders in his store might have been related to his effort to stop the practice. As State Attorney Robert Eagan's letter of March 12, 1976, states "I was disturbed to learn...that T. Zeigler had been interviewed by sheriff's deputies reference loan sharking.... I specifically recommended...that no interview be had until Zeigler was ready to talk.... I further suggested that any information he might give could wait until after the trial...." (Available as Exhibit B) It was not until after the Zeigler trial that the DeMars investigation turned up evidence that Charlie Mays, the black store customer found dead in the Zeigler Furniture Store, may have been the shooter in the early seventies in the still unsolved murder of Winter Garden store owner, Jacob Reddick. DeMars' investigation resulted in the arrest of the former wife of Mr. Reddick for loan sharking, but the connection to the Zeigler case was not discovered until years later. It may also be significant that klansman and retired

¹The Christmas 1951 Murders of Harry T. And Harriette V. Moore, Results of the Attorney General's Investigation, Charlie Crist, Attorney General

former sheriff, Dave Starr, was known to be a frequent customer of the Reddick Country Store.

9. Orange County Sheriff Lt. Jack Bachman, who had a role in withholding important information in the Zeigler case, (Available as Exhibit G) was the investigator in the 1970 unsolved murder of Jacob Reddick.

SUMMARY OF ARGUMENT

The Amicus Curiae believe that the murders in the Zeigler Furniture Store were the result of a Ku Klux Klan inspired attack on William Thomas Zeigler. When Mr. Zeigler survived the attack, he was framed by elements in law enforcement and powerful people allied with the Klan who were involved in loan sharking and possibly gun running as well. A rush to judgment on the part of the State Attorney and the refusal of Judge Maurice Paul to recuse himself contributed to this miscarriage of justice. The state attorney failed to turn over an exculpatory police report during the original trial which called into question the state's theory that Zeigler had shot himself just before or just after calling police. That report stated that the blood around Mr. Zeigler's entry and exit wounds was dry when the police arrived within 3 to 4 minutes of the phone call. Part of the report is available as Exhibit D.

THE SIMILARITY WITH THE MURDER OF JACOB REDDICK

Jacob "Shorty" Reddick was the owner of a store in Winter Garden when he was murdered in his store in February 1970. That crime has never been solved. The under cover loan sharking investigation by Detective Tom DeMars in 1976 turned up information concerning the murder of Mr. Reddick. The modus operandi of the illegal loan racket was to provide farm worker crew bosses with cash from store owners to distribute loans to their work crews. The crew bosses would then insure that their men cashed their weekly pay checks at the store providing the funds. The store owner would cash the checks and deduct a fee in addition to the amount owed. In a video taped deposition taken in August 2006, (a partial transcript of that interview is available as Exhibit A) Mr. DeMars, who is now deceased, swore that he learned that Carol Reddick had hired Charlie Mays to shoot her husband for \$5000. Mays was a crew boss for the Reddick owned Harlem Heights labor camp. According to the information, Carol Reddick had her boy friend take her husband's revolver the day before the murder and fire it into a lake and then return it to the store where it was kept behind the counter. When Reddick's body was found, his revolver contained empty shell casings but no bullet holes were found in his store.

This story bears a striking similarity to the stories told by Edward Williams and another witness, Felton Thomas, in the Zeigler case. According to Williams, Mr. Zeigler attempted to shoot him as Williams entered the back door of the darkened furniture store, but

the gun was empty and all Williams heard were several “clicks.” Williams then claimed Zeigler gave him the gun to try to persuade Williams to enter the store. Williams took the gun, scaled the fence in back of the store, and turned over the gun - one of the murder weapons - to the police the next day. The gun belonged to Mr. Zeigler and was kept in his truck to which Edward Williams had access. Felton Thomas testified that Zeigler took him and Mays to an orange grove to fire some guns on the night of the murders.

THE STATE’S ATTEMPT TO SUBORN PERJURY IN 1976

According to three reliable sources, in January or February of 1976 a young man (name withheld to assure the safety of the sources) who was then in jail in Orlando was approached by an officer of the court and offered a plea deal in which the child molestation charge against him would be dropped if he would testify that he was Zeigler’s homosexual lover. According to the signed affidavit of the man’s mother, her son, who is now deceased, was an admitted homosexual who had never met and did not know of Tommy Zeigler. She affirmed that her son was told that he would be charged with murder if he refused to testify. The man refused the offer, and he was later tried and acquitted in the murder of Marion Fogelsong who was killed in Orlando in August 1975. The public defender in the murder trial was one of the sources for this information. The affidavit of the unnamed woman is available as Exhibit C.

THE STATE’S BLOOD EXPERT AT TRIAL WAS PREJUDICED AGAINST HOMOSEXUALS

The state’s blood expert at trial in 1976 was Herbert L. MacDonell. MacDonell offered a course in analyzing blood spatter which had recently been taken by Orange County Deputy Sheriff Don Frye, who was the first to accuse Tommy Zeigler on the night of the murders. MacDonell was brought in as expert and may have been informed by his former pupil of the rumors that the crime had a sexual motive because the pants of Charlie Mays were pulled down around his crotch in one of the crime scene photos. Since Mays was shot in the abdomen before being beaten to death, it is likely that Mays himself pulled his pants down after being shot. That Mr. MacDonell’s testimony was prejudiced by his antipathy toward homosexuals is evident in his letter to the Amicus Curiae in January 2008. In the letter MacDonell says, “Consistent with the **reported** (emphasis added) AC/DC sexual persuasion of Tommy Zeigler it is logical that he fondled, licked, or sucked Mr. Mays’ gentiles.” (sic) Letter available as Exhibit F. This unsupported opinion was not voiced at trial where he apparently agreed with the state that a blood stain under the arm of Zeigler’s shirt indicated he had held Perry Edwards in a headlock while beating him over the head with a metal linoleum crank. The state attorney, Robert Eagan, demonstrated the conjectured beating of Perry Edwards during his closing argument and at one point during cross

examination of Tommy Zeigler accused him of this when he said, “You can’t tell me how you held Perry Edwards around the neck and clubbed him with your right hand as you held him with your left?”

It is obvious from MacDonnell’s letter that his apparent homophobia was an important factor in coloring his testimony against Mr. Zeigler at trial. He went so far as to state on national TV in 1989 that there was no doubt in his mind that Zeigler was the killer. In that TV program he demonstrated the conjectured beating of Perry Edwards based on the underarm blood stain which **DNA established was not Perry Edward’s blood but in fact was the blood of Charlie Mays**. This important finding shattered the entire theory of the prosecution and led to ASA Jeffrey Ashton’s new allegation at the hearing before Judge Whitehead in 2004 that the blood stain on Zeigler’s shirt came while Zeigler performed a depraved sexual act on Charlie Mays’ dead body.

THE STATE CHANGED ITS THEORY IN THE HEARING BEFORE JUDGE REGINALD WHITEHEAD IN DECEMBER 2004

In what may have been the most malicious and unfounded attack on Mr. Zeigler since the murders that left his wife and her parents dead on Christmas Eve, 1975, then Assistant State Attorney and now State Attorney Jeffrey Ashton purposely manipulated the testimony of blood spatter expert, Stuart James, during the hearing dated December 20, 2004, in order to make the same accusation that Mr. MacDonnell had made in his letter in Exhibit F. Mr. Ashton wanted the court to believe that there was a homosexual motive for the crimes which explained the blood stain the state had erroneously claimed came from Perry Edwards in 1976. Ashton apparently believed he could prejudice the courts’ decision to grant Zeigler a new trial based on the DNA findings which clearly proved the state had been wrong. Mr. Ashton elicits in graphic detail from a reluctant witness how the blood might have come to be on Mr. Zeigler’s armpit as he lay across the dead body of Charlie Mays with his face in close proximity to Mr. Mays’ genitals.

The accusation by Mr. Ashton so outraged Raymond McEachern that he filed an ethics complaint with the Florida Bar for violations of law, bar standards, and common decency.

CONCLUSION

Because of the errors in judgment and malicious prosecution that have characterized the handling of the murder charges against William Thomas Zeigler for thirty-eight years, we respectfully plead with this Honorable Court to grant Mr. Zeigler’s petition for a Writ of Certiorari. **No man should be put to death because the state is too proud to admit that they were wrong.**

Under penalty of perjury I swear that the foregoing is true to the best of my knowledge and belief.

Filed this 10th day of May 2014

RTM

Leigh O. McEachern, Raymond T. McEachern

Amicus Curiae

Certificate of Service

I hereby certify that an electronic copy of this brief was sent by email to counsel for petitioner, Dennis Tracy, and counsel for the state, Lisa-Marie Lerner.