

RICHARDSON, James Joseph (B/M)

DC # 021377

DOB: 12/26/35

Twelfth Judicial Circuit, DeSoto County, Case # 3302-D

Sentencing Judge: The Honorable John Justice

Attorneys, Criminal Trial: John Spencer Robinson, Esq. & Richard S. Whitson, Esq.

Attorney, Direct Appeal: John Spencer Robinson, Esq.

Date of Offense: 10/25/67

Date of Sentence: 05/31/68

Circumstances of Offense:

James Richardson was convicted and sentenced to death for the 10/25/67 poisoning of his stepdaughter Betty Jean Bryant.

Evidence presented at trial revealed that Betty Jean Bryant and her six siblings were poisoned with a large amount of parathion. On the day in question, the children had returned home from school in order to eat lunch. Their parents were miles away at work picking fruit. It was determined that parathion poison had been placed in every container that the children might have eaten lunch from. Upon returning to school after lunch, teachers reported that the children immediately began showing symptoms of distress and were taken to the hospital.

James Richardson and his wife, Annie Mae Richardson, were alerted to their children's conditions and taken to the hospital where they were receiving treatment. Upon learning that the children were dying as a result of something they ingested, Sheriff Frank Cline of the DeSoto Sheriff's Department rushed to the Richardson home for the purpose of identifying the consumed toxin. Sheriff Cline searched the home, with the permission of James Richardson, in the hope that identifying the poison may help doctors save the children's lives. Nothing was seized from the home at that time. Sheriff Cline then returned to the hospital to inform Richardson that he would like to search the refrigerator, which was locked. Richardson gave Sheriff Cline the keys to the refrigerator, which he kept around his neck, and "invited" him to make a thorough search of the house. At that time, there was never any suspicion that a crime had been committed or that Richardson was involved in any way. Upon returning to the Richardson home, Sheriff Cline located and removed the poisoned food and containers that the children ate from.

Sheriff Cline subsequently searched the Richardson home on several occasions with the voluntary consent of James Richardson. Richardson even helped once. Several articles were taken from the home to be analyzed by toxicology experts, but there was still no reason to suspect that the children had been purposefully poisoned. Upon learning that Richardson had acquired life insurance policies on each of his children the day before

their poisonings, a search warrant was secured for subsequent searches of the Richardson home.

James Richardson was eventually arrested and charged with the poisoning death of Betty Jean Bryant. At trial, the State presented the testimony of several jail inmates who claimed that Richardson admitted to killing his children. One inmate, Ernell Washington, testified at the preliminary hearing that he heard Richardson confess to poisoning his children to calm problems arising between his wife and her ex-husband. Ernell Washington was murdered prior to testifying at Richardson's trial. At that time, there was no official record of Washington's testimony from the preliminary hearing. As such, several persons, all of whom were present at the preliminary hearing, testified as to the statements made by Washington during that hearing.

There was strong suspicion that Betsy Reese, the Richardson's neighbor and occasional babysitter, was responsible for the poisoning deaths of the Richardson children. Evidence indicated that Betsy Reese prepared the lunch that resulted in the children's deaths, and she was the last person to come in contact with the children before the poison took hold. Betsy Reese, however, was never charged in the investigation of the poisoning deaths of the Richardson children.

James Richardson was convicted of First Degree Murder and sentenced to death.

Trial Summary:

12/05/67	The defendant was indicted on the following: Count I: First-Degree Murder
03/29/68	Motion for change of venue granted and trial moved to Lee County.
05/31/68	The defendant was found guilty of First-Degree Murder, as charged in the indictment.
05/31/68	A majority of the jury did not recommend mercy.
05/31/68	The defendant was sentenced as followed: Count I: First-Degree Murder – Death

Appeal Summary:

Florida Supreme Court, Direct Appeal

FSC # 38,003
247 So. 2d 296

09/17/68	Appeal filed.
04/21/71	FSC affirmed the conviction and sentence of death.

Florida Supreme Court, Petition for Writ of Error Coram Nobis

FSC # 73,435

546 So. 2d 1037

12/15/88 Petition filed.
06/26/89 FSC denied Richardson's petition with leave to file a Motion to Vacate
 Judgment and Sentence (3.850) in the State Circuit Court
09/08/89 Rehearing denied.

Case Information:

Richardson filed a Direct Appeal in the Florida Supreme Court on 09/17/68. In that appeal, he argued that the trial court erred in refusing to grant his motion to suppress evidence seized from his home. Richardson asserted that Sheriff Cline should have informed him of his constitutional rights prior to conducting a search of his home. The Florida Supreme Court responded, "The initial searches of the premises were made for the purpose of aiding doctors to save the children's lives and before the defendant became a suspect. Furthermore, the initial searches were made with the defendant's consent and subsequent searches with a search warrant." Richardson further contended that the trial court erred in allowing several persons testify as to their recollection of Ernell Washington's testimony at the preliminary hearing. In their opinion, the Florida Supreme Court cited the "former testimony" exception to the hearsay rule, which allows a third party to relay witness testimony given under oath in any proceeding where the defendant was represented by counsel and had the opportunity to confront the witness. The Florida Supreme Court also noted that Ernell Washington's testimony that Richardson confessed to killing his children was further supported by the testimony of several other inmates at the Arcadia jail. The Florida Supreme Court found no merit in Richardson's appeal, and as such, they affirmed the conviction and sentence of death on 04/21/71.

Richardson's death sentence was converted to life imprisonment without the possibility of parole for 25 years, as dictated by the United States Supreme Court's decision in *Furman v. Georgia* (408 U.S. 238, 92 S. Ct. 2726, 33 L. Ed. 2d 346 (1972)).

Twenty years after his original conviction, Richardson filed a petition for Writ of Error Coram Nobis in the Florida Supreme Court. In that petition, Richardson alleged newly discovered evidence including perjury, evidence suppression and witness recantation. In response, the Florida Supreme Court noted that an appellant seeking a new trial would traditionally apply to the appellate court with leave to petition the trial court for a Writ of Error Coram Nobis. However, the establishment of Criminal Rule of Procedure 3.850 replaced the need to petition the appellate court for Writ of Error Coram Nobis, streamlining the process by allowing an appellant to file a 3.850 Motion directly in the State Circuit Court. As such, on 06/29/89 the Florida Supreme Court denied Richardson's Petition for Writ of Error Coram Nobis with leave to file a 3.850 Motion in the State Circuit Court.

While Richardson's Petition for Writ of Error Coram Nobis was pending in the Florida Supreme Court, Richardson filed a Motion to Vacate Judgment and Sentence (3.850) in the State Circuit Court. The Attorney General filed a motion requesting the Supreme Court to relinquish jurisdiction to the Twelfth Judicial Circuit. The Florida Supreme Court denied the motion, but instructed the State Circuit Court to hear the 3.850 Motion. On 05/02/89, Judge Clifton Kelly vacated Richardson's conviction and sentence of death and granted Richardson a new trial.

Law Enforcement/ Prosecution Statements:

A letter requesting comment was sent to the DeSoto County Sheriff's Department on 05/01/02. No response has been received to date.

Assistant State Attorney Don Horn issued the following statement regarding the disposition of the Richardson case:

My comments are numerous, but I will try to restrict them to three (3) issues:

- 1) Errors and Inappropriate Conduct by the State Attorney's Office;
- 2) Insufficient Investigation by the Sheriff's Office; and
- 3) Inexperience of the Defense Attorney

My six (6) month review of the case led me to the unenviable conclusion that a great travesty of justice occurred and the blame must primarily be laid at the feet of the State Attorney's Office and the Sheriff's Office which prosecuted and investigated this matter. I am listing the information here based on my recollection of the investigation we did with FDLE in 1989.

Errors and Inappropriate Conduct by the SAO

A. Richardson's trial attorney filed a motion with the trial court judge requesting copies of statements of the State's many witnesses. The Court granted the motion and ordered the State to turn over the information. The State never provided that information to Richardson's attorney, even though most of it constituted Brady material. The importance of this is underscored by your summary. Your summary refers to "several jail inmates who claimed that Richardson admitted to killing his children", and also specifically refers to Ernell Washington and his testimony. Many of these witnesses gave several statements. In addition to claiming that Richardson admitted the killing, each witness also claimed that Richardson felt he knew who poisoned his kids (the babysitter, Betsy Reese), and that Richardson gave a very detailed explanation of a motive for Reese to do so. As to Ernell Washington, in one portion of his transcribed statement, (if my recollection is correct) both of Richardson's

alleged claims are on the same typed page. Contrary to the express order of the trial court judge, these statements were never provided to Richardson's attorney. Interestingly, the Florida Supreme Court, in addressing the "former testimony" exception to the hearsay rule as it related to the third party witnesses who testified about their recollection of Ernell Washington's testimony, specifically noted the Washington's testimony (of Richardson's admission) was further supported by the testimony of several other inmates. I cannot help but wonder whether the Florida Supreme Court would have reached a different conclusion had it 1) been informed of the existence and full contents of the other statements; 2) been fully aware that the State failed to turn over Brady material pursuant to a court order; and 3) been aware of the fact that the State Attorneys Office failed to even disclose to defense counsel the existence of testimony in the State's file which tended to exonerate the defendant. Nevertheless, the State presented the testimony of the jailhouse informants knowing it had information in its files, which directly contradicted that evidence.

B. Although not required to prove "motive" at the trial, the State argued that Richardson poisoned his seven kids to get the insurance money from insurance policies he had acquired the night before their deaths. What is the problem with this argument? The State had in its files numerous statements of Gerald Purvis, the insurance agent, who repeatedly and consistently stated under oath that 1) Richardson did not acquire insurance that night; 2) Purvis told Richardson that the insurance would not be effective until the premiums were paid; 3) Richardson would not be able to pay him until he got paid (several days later); and 4) Richardson knew when Purvis left that night that the children were not insured. These statements were not provided to Richardson's trial attorney, allowing the State to make an argument to the jury, which was directly contradicted by evidence in its files.

C. The State argued its theory of the case knowing that the physical evidence directly contradicted it. Everyone agrees that breakfast was prepared that morning for the children, that Richardson and his wife left to go to work before the children got up, that the children ate breakfast that morning and that the Richardsons did not return to the house until after they were summoned to the hospital from the field many miles away (they did not have their own transportation). The physical evidence revealed that parathion poisoning was located on the plates, which the kids used to eat breakfast and in the grits pot from which the breakfast was served. Yet, not one of the children got sick until after they ate lunch. Parathion poisoning was also discovered on plates, which the children used to eat lunch, and in the pots from which the lunch was served. Moreover, parathion poisoning was found in detergent and other items in and around the kitchen and in the locked refrigerator (there was testimony that

indicated there was a second key to the refrigerator which was kept somewhere in the kitchen), which may have indicated a desire that everyone in the house would at some point ingest the poison. If the children all ate breakfast and the poison was present when they ate, they would have gotten sick long before their noon lunchtime. They didn't. Mr. Treadwell was the Assistant State Attorney who prosecuted this case with Frank Schaub, the State Attorney. I took a sworn statement from Mr. Treadwell during the course of our investigation. When I questioned Mr. Treadwell on this issue, his response was "that has always bothered me". In other words, to him the physical evidence clearly demonstrated that in all probability, the poison was placed in all these locations after Richardson left the house, and there is no evidence (or assertion from the State) that Richardson returned to the house before the authorities contacted him. The State argued a theory that was directly contradicted by the evidence contained in its files and presented such a theory when one of the ASAs prosecuting the case had specific concerns about the inconsistency between the physical evidence and their theory of the case. Mr. Treadwell opined that someone may have assisted Richardson and therefore, Richardson would have been guilty as a principal. Of course no such argument was ever made, nor was there any evidence in the State's file supporting that argument or indicating that any investigation was ever pursued for such a theory.

Insufficient Investigation by the Sheriff's Office

A. Two of the most startling statements made to me during the course of my investigation were made by the Sheriff (Frank Cline, I believe) and referred to the investigation conducted by his office. The first statement referred to the fact that the Sheriff had no reason to suspect Betsy Reese as a suspect. This statement was made in spite of the fact that on the day in question:

1. Betsy Reese warmed the food and served lunch to all of the Richardson children;
2. Betsy Reese was the last person to come into contact with the children before they started exhibiting signs of having been poisoned;
3. Betsy Reese had access to the Richardson's residence because she was also serving as babysitter for the younger, non-school age children;
4. Betsy Reese had already been convicted and served time for murdering a former husband due to jealousy;
5. It was widely known (by the Sheriff's office and others) that Betsy Reese was suspected of killing a second husband (via poisoning);
6. Betsy Reese was upset with Mr. Richardson because Richardson's wife had a sister who visited them in Arcadia. When Richardson's sister-in-law left to return to Jacksonville, Florida, Betsy Reese's third husband accompanied them. That husband never returned to Arcadia;

7. After her husband failed to return, Betsy Reese became upset with Richardson and his wife and although she lived in the same structure, shared a common porch and lived right next door, she stopped visiting the Richardsons;
8. Betsy Reese had just started visiting the Richardsons a few days before the deaths of the seven (7) children;
9. Richardson explained this theory in detail to the Sheriff and also to the jailhouse informants; and
10. The Sheriff conducted at least 3 searches of Richardson's residence, the areas around and under Richardson's residence and a shed a short distance away. Nevertheless, the morning after those searches Betsy Reese went directly to the shed with the "town drunk" and "found" the poison. The second remarkable statement from the Sheriff was, He didn't see anything unusual about this discovery by Betsy Reese.

B. Notwithstanding the above, and more importantly, while everyone was trying to find the source of the poisoning and all the searches were being conducted in , around, under and down the path from Richardson's residence, the only area that was not searched was Betsy Reese's residence. The Sheriff knew that some of the younger children had actually been in Reese's residence that day during the morning hours and before she fixed their lunch. The Sheriff had no explanation of why such a search was not conducted other than his assertion that she was not a suspect.

C. The Sheriff assisted in the taking of statements from Richardson and the jailhouse informants and knew of the Brady material contained in those statements. The Sheriff also assisted in the taking of statements from the insurance agent Gerald Purvis. Notwithstanding his full knowledge of those statements he testified contrary to this evidence that was also contained in the State Attorney's file. This false testimony was never brought to the attention of the trial court judge (by the State).

Inexperience of the Defense Attorney

One of the other things that I feel contributed to this travesty was the defense attorney's lack of experience in handling criminal cases of this magnitude and his failure to have previously handled a capital case. The playing field might have been leveled if the State Attorney had performed his duty and obligation as prosecutor. The State's failure to do so caused the trial to be nothing more than a farce, with the State presenting arguments, theories and testimony, which it knew was directly contradicted by evidence in its file and which was not known to the defense attorney or the Court. Had someone not broken into the office of the former Assistant State Attorney, stolen the files and forwarded them to the Governor's Office, Mr. Richardson might still be sitting in prison and

the egregious nature of the State's (and Sheriff's) actions in this case might never have been uncovered. In my argument to Judge Clifton Kelly at the hearing on the 3.850 motion, I informed the Court that contrary to the arguments and assertions by other attorneys who spoke during the hearing, my statements and assertion were going to be backed up by documents. Unfortunately, the evidence that led Judge Kelly to release Mr. Richardson at the conclusion of the hearing and the overwhelming majority of documents that supported our claim that Richardson had not gotten a fair trial were still in the State Attorney's file twenty-one years later.

Defense Statements:

Letters requesting comments were sent to Defense Attorneys Peter M. De Manio and Ellis S. Rubin on 05/07/02. No response has been received to date.

Defense Attorney Mark Lane provided the following statement on the Richardson case:

I thank you for this opportunity to contribute to the historical record regarding the State of Florida v James Joseph Richardson.

First allow me to advise you regarding statements contained in the present account of the matter.

John Spencer Robinson is deceased.

Mr. Richardson is residing in Kansas and is gainfully employed. He has thus far battled against severe physical problems that were created or contributed to by his treatment by the State of Florida. During his years of residence and work in Kansas he has been a model citizen.

No one broke into the office of the former Assistant State Attorney, stole the files and forwarded them to the Governor's office. Mr. Horn's assertions are in error. Below, you will find an accurate account of those matters.

The refusal of Mr. Horn to acknowledge the central and crucial role of State Attorney Janet Reno, who was the only State Officer formally assigned to investigate the case and who was assisted by two subordinates, one of whom was Mr. Horn, raises questions. Indeed his refusal to even mention her name gives the impression that truth has surrendered to transitory politics. Mr. Horn states that he addressed the Court and takes credit for being the only attorney whose statements were supported by

documents. In fact, the only attorney who spoke on behalf of the State of Florida, who did so at length and who presented the conclusion that the State had committed error was Janet Reno. Mr. Horn did make a few brief comments.

Similarly, the refusal of Mr. Horn to mention, with the exception of a passing reference, the name of the State Attorney Frank Schaub, who shared with Sheriff Frank Cline, the responsibility for deliberately framing a man they both had reason to believe was innocent, causes concern to any person seeking to understand the record.

It is in this context of shifting blame and credit rather recklessly that one must examine Mr. Horn's assertion that the defense lawyer, Mr. Robinson, who served without fee, who did his best under the extreme circumstances that existed in Arcadia at that time, is also to blame for the travesty of justice. Indeed, State Attorney Reno, in her official report, revealed that she was considering action against Mr. Schaub but that likely it was time barred. The monumental and unforgivable violation of the rights of a resident of the State of Florida by its officers who were sworn to uphold the law cannot be fairly revised for reasons of political expediency.

After Mr. Richardson was convicted, sentenced to death and was confined to death row at the State Prison in Raiford, Florida, I met his attorney, John S. Robinson and subsequently visited Mr. Richardson in prison.

I began my own investigation that continued for more than one year. I interviewed all of the relevant witnesses who could be located including the woman who had poisoned the seven children, the witness who later located the poison in a shed, the insurance salesman, jurors who had served at the trial and others. I interviewed the Chief of Police of Arcadia, Richard Barnard, who from the outset believed that Mr. Richardson was innocent and believed that Sheriff Cline and Frank Schaub were engaged in serious misconduct. He was removed from the case.

Based upon my experience as a trial lawyer [at present I have been a trial lawyer for more than half a century] and the information I had secured from forensic experts regarding the relevant properties of the poison, I concluded that Mr. Richardson was innocent. I wrote a book, Arcadia, about the case, hoping that it might play some part in saving Mr. Richardson's life.

That book was read by a young woman who was then, ten years after the trial, employed by the Assistant State Attorney in Arcadia. She told her employer, Mr. Treadwell, that she had read the book. Mr. Treadwell, who had played a minor role as Mr. Schaub's assistant during the trial, then stated -- "We framed an innocent man. We almost killed an innocent

man." Later the young woman repeated that confession to a friend of hers. He was outraged, asked her for the key to the office and then visited the office and took the file with him when he left. The file was maintained in his constructive possession for a decade.

Subsequently, my wife, Patricia and I organized an "End The Silence " meeting in an old school house, the building where the older Richardson children had attended and died. Hundreds of people attended, none more important than the gentleman who had taken the file. In the presence of a Deputy Sheriff, Cline had since been defeated, he revealed the facts that resulted in his possession of the State Attorney's file. Soon the file was delivered to me.

The file was nothing less than the anatomy of a frame-up. Before the Sunshine Laws and the Freedom of Information Act as Amended, prosecutors and law enforcement officers thought nothing of having the proof of their misconduct set forth on the record, secure in their belief that no outside person would ever have access to it.

I took the file to the general counsel of the Governor of the State of Florida with a letter setting forth the relevant facts and demanding that a special prosecutor be appointed. I also contacted my two close friends, Dick Gregory and Steve Jaffe, and together we launched a media campaign. In a short time more than eleven thousand letters from all over the country reached the governor. Newsweek reported that the case began as a tragedy and ended as a travesty. Demands from all over the country with network television programs giving the name and address of the Florida Governor, front page headlines in newspapers throughout the state, all coordinated by Dick Gregory and Mr. Jaffe, resulted in many thousands of additional letters to the governor supporting our demand for the appointment of a special counsel.

The governor appointed Janet Reno as the special counsel with the authority to speak for the State of Florida. At a hearing in Florida I stated that the state had secured its conviction by suborning perjury, using perjured testimony and suppressing exculpatory evidence. The nation waited for Ms. Reno's response. The arguments were carried live via television across America. She said that Mr. Lane had made the most serious charges against a State that can be made. She added that unfortunately those charges were true. She confessed error on behalf of the State and joined in my request that the conviction be set aside.

After a long recess, somewhat inexplicable since both sides to the controversy were in agreement that the verdict should be reversed causing one wit to suggest that he had heard of a hung jury but not a hung judge,

the judge set aside the conviction and James Richardson and I walked out of the Arcadia jail together.

To the scores of reporters, photographers and television cameras James spoke briefly. He said:

"To the people of Arcadia I thank you. You knew I was innocent and you came together, black and white, all together, to free me. There are still problems here in Arcadia. Stay together. Help each other."

Current Status:

There was no available information regarding Richardson's arrest history subsequent to release.

Report Date:	04/30/02	ew
Approved:	05/03/02	ws
Updated:	06/04/02	ew