

FILED, acted of record

This 17th day of August 2008

CLERK, LAUREL CIRCUIT DISTRICT COURT

By [Signature]

COMMONWEALTH OF KENTUCKY
LAUREL CIRCUIT COURT
INDICTMENT NO. 89-CR-0024

RONNIE LEE BOWLING

MOVANT

v.

COMMONWEALTH OF KENTUCKY

RESPONDENT

SUPPLEMENTAL REPLY TO
COMMONWEALTH'S RESPONSE TO
BOWLING'S CR 60.02 MOTION FOR A NEW TRIAL

Comes Mr. Ronnie Lee Bowling, Pro-se, with this supplemental reply. Because there are some parts of the Commonwealth's "Response" that are so outrageous, these parts would be best addressed in a Pro-se Supplemental Reply.

Since the Commonwealth attorney in his "Response" made certain comments. This has opened the door for extra information:

- 1.) Supposedly Mr. Jackie Steele, the local Assistant Commonwealth Att. in Laurel County wrote "Response". He opens with, "Comes the Attorney General of the Commonwealth of Kentucky, by counsel," My question is, Who is he rep. the Att. Gen. or the Commonwealth of Kentucky?
- 2.) In the "SUMMARY" section of Commonwealth's response, it seems is all he can come up with to respond to Bowling's CR60.02 Motion For a New Trial, is to say, "factually similar complaint about FBI Agent havekost testimony in his previously filed and over ruled RCr.11.42 motion although the claim in that

Bowling replies a violation of the 8th and 14th Amendment of the U.S. Constitution has occurred by allowing this misleading of the jury in this case. See DONELLY V. DECHRISTOPORO, 416 U.S. 637, 647-648 (1974).

motion was pleaded as ineffective assistance counsel. Therefore, had Bowling and his RCr. 11.42 attorneys exercised due diligence the present CR 60.02 claim could have and should have been presented at that time."

Well, there is so much wrong with this first paragraph the Commonwealth prosecutor has wrote for a "Response". Once again they attempt a "Red Herring". This time we have the facts. Not like the misleading information they presented to the jury to gain a wrongful-conviction.

The Red-Herring here is the attempt to mislead or lead the Court's attention off the real "Newly Discovered Evidence".

A.) The "CR 60.02 MOTION FOR A NEW TRIAL" that Mr. Ronnie Lee Bowling filed, Pro-se, is based solely on "Newly Discovered Evidence". It is called "Newly Discovered Evidence" because it was not around at the time of Bowling's trial in 1992 or his RCr.11,42 motion in 1998. It would of been impossible for Mr. Ronnie Lee Bowling to have obtained this evidence any sooner than he did. Because it did not exist.

B.) This "Newly Discovered Evidence" was born Feb.10,2004. Bowling filed a Pro-se CR60.02 Motion based on this report. The motion was filed well within the 12 month "Statute of Limitations" that govern the Civil Rule 60.02. This evidence does fit the criteria for Civil Rule 60.02 "Newly Discovered Evidence".

C.) "NATIONAL RESEARCH COUNCIL" published their book sized report on "COMPARITIVE BULLET LEAD ANALYSIS" on Feb.10,2004.

renowned bunch of scientists on planet Earth. Ask them to go over all their methods of testing Forensics of Ballistics, Metallurgy and lead bullets. Well, they did. The science relied upon for alleged crime scene lead bullets all of these years is factually proven, not just theoretical, but factually proven to be unreliable flawed, "Junk-Science".

At the time of Bowling's trial in 1992 this study had not took place. This "Newly Discovered Evidence" would have been impossible for Mr. Ronnie Lee Bowling to have obtained any earlier than he did and filed on time the CR60.02 Motion For a New Trial.

At the time of Bowling's RCr.11.42 Motion filed at trial Court in Laurel County(London, KY) which was in 1998 this study had not took place. This "Newly Discovered Evidence" would have been impossible for Mr. Ronnie Lee Bowling to have obtained any earlier than he did and filed on time the CR50.02 Motion For a New Trial. Based on "COMPARITIVE BULLET LEAD ANALYSIS" report released Feb.10, 2004 by "NATIONAL RESEARCH COUNCIL".

G.)The Commonwealth Att. in his "Response" once again attempts to mislead with the "Red-Herring" when he mentions something about "ineffective assistance of counsel" claim that was raised back in 1998 in Bowling's RCr.11.42 Motion. This is not just a "claim" this is the facts that show what the CAPITAL DEATH PENALTY JURY in Mr. Ronnie Lee Bowling's jury was told was flawed, unreliable "Junk-Science". The jury was misled. This CR 60.02 filed on "COMPARITIVE BULLET LEAD ANALYSIS" is NOT in any way a claim of ineffective assistance counsel. Even

Bowling's attorneys none of them could of found this any sooner than Mr. Ronnie Lee Bowling did and filed Pro-se. Because this "Newly Discovered Evidence" did not exist until Feb.10,2004. It is clearly stated in Bowling's Pro-se CR60.02 Motion for a New Trial that this is what he filed on. This is NOT a claim of ineffective assistance of counsel. This is "Newly Discovered Evidence". This could not have been raised at trial or the RCr.11,42 Motion,because it did not exist.

2.)On page 2. of the Commonwealth's "Response". He gives a little of the case history. What he did not tell you. Is that when the case went up to the Kentucky Supreme Court they commented on the lead bullets. You can find some of their quotes in the "SUPPLEMENTAL CR60.02 MOTION FOR NEW TRIAL" that Att. David Harshaw filed for Bowling in this pleading. You shall see how much that they gave weight to this lead bullet evidence. Just think how much more that average citizens of the community that sat on the Capital Jury gave weight to this flawed,unreliable "Junk-Science".

A.)With anything that could have said for or against these methods of testing lead bullets. It would have been only theory. When Donald Havekost testified. It was of the science of that time. That science has been deemed unusable and done away with. Look at the affidavit in "SUPPLEMENTAL CR 60.02 MOTION FOR NEW TRIAL" in exhibit "C." You will see Ms. Kazanjian of the F.B.I. Crime Lab in Washington,D.C. where these lead bullets were sent for analysis,says any testing related to the compositional analysis of bullet lead has been suspended for two years.

5.) This is "Newly Discovered Evidence" that has never been raised before by Bowling. Nor could have it been raised by Bowling any sooner than he did. For one the report did not exist until Feb.10,2004. Bowling ask for funds for testing of bullets and to hire experts. The funds were denied. Bowling is deemed indigent by the Court. He could not have financially went out and hire the "NATIONAL RESEARCH COUNCIL", the most respected group of scientists on planet Earth to of done this indepth study like they have done.

6.) Even if funds would've been granted. No matter how many experts on bullets were brought in in the past. They could've only testified to the best of their education. The curriculum on lead bullets metallurgical forensics were different (FLAWED, UNRELIABLE JUNK-SCIENCE) prior to Feb.10,2004. They could've expanded to the realm of "THEORIES". But as we all know alot of scientific theories have been deemed false. Theories remain OPINIONS until it is systematically and logically examined. In a process that proves or disproves the theory. Even once the great thinkers on our planet had a "Theory" that the Earth was flat. Until better science came along and proved that theory was flawed,unreliable "Junk-Science". Well, this is what has happened here with these lead bullets. The new science has proven, may I add, "INDISPUTABLY" that the old science once used and relied upon is flawed,unreliable "Junk-Science" that has been abandoned, and replaced by the new ways of metallurgy forensic science in the very Crime Lab at Washington D.C. where these lead bullets were sent for testing, and all over the U.S.A.

7.) McCleskey v. Zant, 499 U.S. 467, 498 (1991). A death penalty case, the U.S. Supreme Court upheld that denial of a successive Habeas Petition, and explained, "If what a petitioner knows or could discover upon reasonable investigation supports a claim for relief in a federal habeas petition, what he does not know is irrelevant. Omissions of the claim will not be excused merely because evidence discovered later might have also supported or strengthened the claim."

A.) Once again the Commonwealth attorney attempts a "Red-Herring" to try to mislead and deceive. He misquotes this case. First, this is talking about a 2nd(second) Habeas Corpus Petition McCleskey is trying to file.

B.) Bowling has filed a CR 60.02 Motion for a New Trial based upon "Newly Discovered Evidence".

C.) McCleskey simply "Omitted" a claim that he could have raised in his first federal Habeas Petition. Because he omitted it he was barred from filing a second Habeas Petition. This case is nothing like what Bowling has filed. This is "smoke and mirrors" the Commonwealth attorney, et.al. are trying to throw up because they know this is "Newly Discovered Evidence" and it is not "support of strengthen the claim.". This is new science that totally undermines everything their "expert" testified to at Bowling's CAPITAL JURY TRIAL, and mislead the jury with flawed, unreliable "Junk-Science". And on this misleading of the CAPITAL JURY gained a WRONGFUL-CONVICTION and sentenced Mr. Ronnie Lee Bowling to DEATH BY ELECTROCUTION.

D.) Fact is the jury was misled. The affidavits from 3