

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, STATE OF FLORIDA.
CRIMINAL DIVISION

CASE NO.: ~~06~~-5175 CF A02 "Garrison" *W*

STATE OF FLORIDA,

97

vs.

RONALD KNIGHT,

Defendant.

FILED
2006 JAN 10 PM 1:54
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CRIMINAL

ORDER STRIKING EVIDENTIARY HEARING


THIS CAUSE came before the Court upon the State's Motion for Continuance and counsel for the Defendant having no objection to same. It is hereby

ORDERED that the Evidentiary Hearing set in this case on MONDAY, JANUARY 23, 2006 at 1:00 p.m., Palm Beach County Courthouse, 205 N. Dixie Hwy., West Palm Beach, Florida is hereby stricken from the calendar.

DONE AND ORDERED in chambers, at West Palm Beach, Palm Beach County, Florida this 10 day of January, 2006.

[Signature]
EDWARD A. GARRISON, Circuit Judge

- Copies:
- Debra Rescigno
Assistant Attorney General
1515 N. Flagler Drive, 9th Floor
West Palm Beach, FL 33401
- William Hennis, III, Assistant CCRC
CCRC South
101 N.E. Third Avenue, Suite 400
Fort Lauderdale, FL 33301
- Andrew Slater
Assistant State Attorney
401 N. Dixie Hwy.
West Palm Beach, FL 33401

 PALM BEACH COUNTY, STATE OF FLORIDA
I hereby certify that the foregoing
is a true copy of the record in my office.

This 10th Day of January 2006
SHARON R. BOCK, CLERK
Clerk Circuit Court
BY: *[Signature]*
DEPUTY CLERK

Knight's

3.850

Motion

CLAIM 14

MR. KNIGHT IS DENIED HIS RIGHTS UNDER THE EIGHTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, THE CORRESPONDING PROVISIONS OF THE FLORIDA CONSTITUTION AND UNDER INTERNATIONAL LAW BECAUSE EXECUTION BY ELECTROCUTION AND/OR LETHAL INJECTION IS CRUEL AND UNUSUAL PUNISHMENT.

This claim is evidenced by the following:

1. All other allegations and factual matters contained elsewhere in this motion are fully incorporated herein by specific reference.
2. Florida's capital sentencing scheme denies Mr. Knight his right to due process of law, and constitutes cruel and unusual punishment on its face and as applied in this case. Florida's death penalty statute is constitutional only to the extent that it prevents arbitrary imposition of the death penalty and narrows application of the penalty to the worst offenders. See Proffitt v. Florida, 428 U.S. 242 (1976). The Florida death penalty statute, however, fails to meet these constitutional guarantees, and therefore violates the Eighth Amendment to the United States Constitution.¹³
3. Execution by both electrocution and lethal injection imposes physical and psychological torture without commensurate justification, and therefore constitutes cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution.
4. In addition execution by electrocution and lethal injection contravenes well settled principles of international law. On June 7, 1999, the United States Supreme Court directed the

¹³Mr. Knight challenges both lethal injection and electrocution as unconstitutional.

In July, 1999, Florida executed Allen Lee Davis in the electric chair. When problems arose during Mr. Davis' electrocution, subsequent challenges were made based on the events which occurred and documents disclosed by the Florida Department of Corrections. The Florida Supreme Court subsequently denied various challenges to execution by electrocution on the merits. See, e.g. Provenzano v. Moore, 744 So. 2d 413 (Fla. 1999); Bryan v. Moore, 744 So. 2d 456 (Fla. 1999), *cert. granted*, 120 S. Ct. 394 (1999), *cert. dismissed as improvidently granted*, 120 S. Ct. 1003 (2000); Sims v. Moore, 744 So. 2d 456 (Fla. 1999), *cert. denied*, 120 S. Ct. 1155 (2000).

In January, 2000, Florida changed its statute to offer lethal injection as an option in addition to the electric chair.

Solicitor General to respond to a petition in the case of Dominques v. Nevada, No. 98-8327 (Supremacy Clause; Treaty binding states)(decision below 961 P.2d 1279)(Nev. 1998). One of the questions presented in the case asks:

(2)Should the Court grant certiorari to examine and interpret the Senate's authority in exercising its power under Article II Section 2 to "advise and consent" to a treaty made by the president, to determine whether the Senate can, consistent with the constitutional separation of powers, purport to impose a "reservation" which wholly or partially abrogates the treaty signed by the president, while purporting to ratify it?

To the extent that international treaties and covenants that have been signed by the President or ratified by the Senate are applicable to American citizens such as Mr. Knight, Mr. Knight seeks to have his rights under said international human rights instruments protected by the courts of Florida, including, but not limited to Articles 6 and 7 of the **International Covenant on Civil and Political Rights** and Articles XXV and XXVI of the **American Declaration of the Rights and Duties of Man**.¹⁴ Although certiorari in Domingues was later denied, Mr. Knight seeks in good faith to preserve his rights under international law. See Domingues v. Nevada, 120 S.Ct. 396, 68 USLW 3289 (U.S. Nev. Nov. 1, 1999)(NO. 98-8327).

5. To the extent that this issue was inadequately preserved by trial counsel, Mr. Knight was denied effective assistance of counsel. Mr. Knight's sentence of death is the resulting prejudice. Harris v. Dugger, 874 F.2d 756 (11th Cir. 1989). An evidentiary hearing is required, and thereafter Rule 3.850 relief should be granted.

¹⁴Article 6 of the I.C.C.P.R. reads, "Every human being has the inherent right to life. This right shall be protected by law. No one shall arbitrarily be deprived of his life." Article 7 of the I.C.C.P.R. reads, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article XXV of the A.D.R.D.M. concerns the denial of the right to humane treatment while Article XXVI concerns the imposition of cruel, infamous and unusual punishment. Mr. Knight's position is that these well founded international human rights principles apply to him as a citizen of Florida, a state of the United States of America, and that the use of either electrocution or lethal injection as a method of execution, the associated prolonged and extreme mental torture associated with living on death row in Florida facing such a fate, and the length of confinement on death row in Florida awaiting execution by either electrocution or lethal injection, all are prohibited by human rights instruments that are binding on all the United States of America. Further, that the "choice" of electrocution as an alternative to lethal injection is a Hobson's choice.

JUDICIAL CIRCUIT, CRIMINAL DIVISION
IN AND FOR PALM BEACH COUNTY, FLORIDA

Handwritten initials

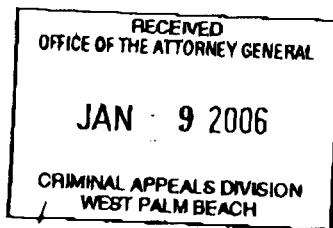
CASE NO. 95CF005175 A02 DIVISION "U"

STATE OF FLORIDA

vs.

RONALD KNIGHT,

Defendant.



COPY

MOTION FOR CONTINUANCE

COMES NOW the State of Florida by and through the undersigned counsel and moves for a continuance of the Evidentiary Hearing scheduled for January 23, 2006, and as grounds therefore, would show as follows:

1. On January 5, 2006, counsel for the Defendant served upon the undersigned counsel a "Preliminary Witness List" containing the names of 23 defense witnesses. (See attachment).
2. Many of these witnesses appear to be expert witnesses with addresses listed in Tennessee, North Carolina, New York, Arlington, Virginia, Norcross, Georgia, as well as throughout the State of Florida.
3. The State of Florida needs additional time to schedule the depositions of these witnesses in order to be properly prepared for the upcoming hearing.

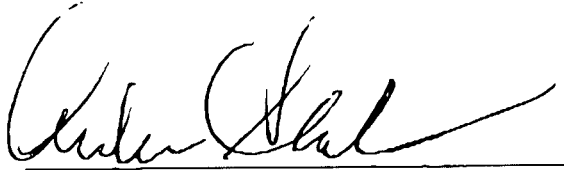
WHEREFORE, the State of Florida respectfully requests that this Honorable Court enter an order continuing the scheduled hearing to a later date which will give the State of Florida adequate time to depose each of the listed witnesses.

Respectfully submitted,

ANDREW R. SLATER
Assistant State Attorney
Florida Bar No. 0259748

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT a true and correct copy of the foregoing Motion for Continuance has been furnished by mail/fax to William M. Hennis, III, Litigation Director, 101 N. E. 3rd Avenue, Suite 400, Ft. Lauderdale, FL 33301 (Fax 954-713-1299), this 6 day of January, 2006.



ANDREW R. SLATER

**IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN
AND FOR PALM BEACH COUNTY,
FLORIDA**

CASE NO. 95-5175-CF-A02

STATE OF FLORIDA,

Plaintiff,

v.

RONALD KNIGHT,

Defendant.

DEFENDANT'S PRELIMINARY WITNESS LIST

Defendant, **RONALD KNIGHT**, by and through undersigned counsel, hereby submits his witness list for the evidentiary hearing scheduled for the week of January 23, 2006, in West Palm Beach before Hon. Edward Garrison:

1. William Mathews
Florida State Prison
7818 NW 228th St.
Raiford, Florida 32026
2. Jonathan Lipman, PhD.
150 Hawkridge Rd.
Unicoi, TN 37692
3. Faye Sultan, PhD.
1001 Old Concord Rd.
Charlotte, NC 28213
4. Phillip D. Harvey, PhD
Department of Psychiatry, Box 1229
Mt. Sinai School of Medicine
New York, New York 10029

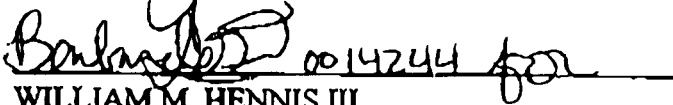
5. Anne H. Perry, Esq.
Hanson, Perry & Jensen, P.A.
400 Executive Center Dr., Ste. 207
West Palm Beach, FL 33401-2922
6. Jose Sosa
6291 Seven Springs Blvd., Unit D
Greenacres, FL 33463
7. Dr. Abbey Strauss, MD
1050 NW 15th St., Ste. 207A
Boca Raton, FL 33486
8. Sherry Brennalt
1182 Beach Road
West Palm Beach, FL 33404
9. Dain Brennalt
c/o Steel Works
4846 Okcochobee Blvd.
West Palm Beach, FL 33409
10. Theresa Scott
1008 Dover Way
Norcross, GA 30093
11. Zebedee Fennell
3282 Artesian Drive
Lake Worth, FL 33462
12. Timothy Pearson
12859 Persimmon Blvd.
West Palm Beach, FL 33412
13. Michael Rathmann, Warden
Florida State Prison
7818 NW 228th St.
Raiford, FL 32026
14. James Crosby
Secretary, Florida Department of Corrections
2601 Blair Stone Road

Tallahassee, FL 32399

15. David Lubarsky, Professor and Chair
Department of Anesthesiology, Perioperative Medicine,
and Pain Management
University of Miami Department of Anesthesia
Jackson Memorial Hospital
1611 NW 12th Avenue (C-301)
Miami, FL 33136
16. Jon Sheldon, Esq.
4111 N. Old Glebe Rd.
Arlington, VA 22207
17. Richard S. Weisman, Pharm.D., ABAT
658 Heritage Dr.
Weston, FL 33326
18. Dr. Patrick Brown, Assistant Secretary of Health Services
Florida Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399
19. Daniel P. Cherry, III, Deputy Assistant Secretary of Health Services, Clinical
Florida Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399
20. Shirley Knight Hart
775 Ne 80th Ave.
Okceehobee, FL 34974
21. John G. Burke, Deputy Assistant Secretary of Health Services, Administrative
Florida Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399
22. Barbara Debelius, Assistant General Counsel
Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500

23. Dr. David Thomas, Clinical Professor and Chair, Department of Surgery
Nova Southeastern University College of Osteopathic Medicine
3200 South University Drive
Fort Lauderdale, FL 33328

I HEREBY CERTIFY that a true copy of the foregoing Defendant's Witness List has been furnished by United States Mail, first class postage prepaid, to all counsel of record on January 5, 2006.


WILLIAM M. HENNIS III
Florida Bar No. 0066850
Litigation Director
101 N.E. 3rd Ave., Suite 400
Ft. Lauderdale, FL 33301
(954) 713-1284
Attorney for Defendant

Copies furnished to:

Judge Edward Garrison
Palm Beach County Courthouse
205 North Dixie Highway
West Palm Beach, FL 33401

Debra Rescigno
Office of the Attorney General
1515 North Flagler Dr.
West Palm Beach, FL 33401-3428

Andrew Slater
The Office of the State Attorney
15th Judicial Circuit
401 North Dixie Highway
West Palm Beach, FL 33401