

jurisprudential authorities cited below, and all other applicable constitutional, statutory, treaty, customary international law, evolving international standards, and jurisprudential authority for an Order to compel the State to disclose whether any of the State's witnesses have been hypnotized to elicit testimony which will be used against Jerry Jones at trial, or whether the State has made use of any truth-determining examinations, including polygraph and sodium pentothal, and the results thereof

In support, counsel states:

1. Jerry Jones is on trial for his life. The State, through the District Attorney, has announced its intention to kill Jerry Jones, a human being, by lethal injection.

2. "The fundamental respect for humanity underlying the Eighth Amendment's prohibition against cruel and unusual punishment gives rise to a special 'need for reliability in the determination that death is the appropriate punishment' in any capital case." Johnson v. Mississippi, 486 U.S. 578, 584 (1988) (citations omitted). It is well established that when a defendant's life is at stake, a court must be "particularly sensitive to insure that every safeguard is observed." Gregg v. Georgia, 428 U.S. 153, 187 (1976). This heightened standard of reliability is "a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different." Ford v. Wainwright, 477 U.S. 399, 411 (1986).

Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

Woodson v. North Carolina, 428 U.S. 280, 305 (1976). The United States Supreme Court has repeatedly emphasized the principle that because of the exceptional and irrevocable nature of the death penalty, "extraordinary measures" are required by the Eighth and Fourteenth Amendments

to ensure the reliability of decisions regarding both guilt and punishment in a capital trial. Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring). See also Beck v. Alabama, 447 U.S. 625, 637-38 (1980); Lockett v. Ohio, 438 U.S. 586, 604 (1978); and Gardner v. Florida, 430 U.S. 349, 357-58 (1977).

3. The use of so-called hypnosis has become a technique which is being employed as an investigative tool by law enforcement agencies in this state. This pseudo-scientific technique is used, with increasing frequency, to enhance, bolster and, in some cases fabricate, the testimony of potential state's witnesses.

4. If this pseudo-scientific technique has been attempted in this case, it will be necessary for Jerry Jones's attorneys to contact and present expert witnesses who will dispute the credibility of any testimony elicited, bolstered or invented through this technique.

5. Jerry Jones has reason to believe that either hypnosis or some other truth determining techniques may have been used by the state in this case.

6. Under hypnosis and other truth determining examinations, an interpretive difficulty arises because of the subject's extreme suggestibility which enables him or her to detect meanings in the expert's questions which are unintended and unrecognized by the expert himself. Further the nature of hypnosis, polygraphs and so-called truth serums is beyond the kin of modern recognized scientific methods.

7. Jerry Jones would further contend that he is entitled to disclosure of the State's use of truth-determining examinations. While such evidence is not admissible at trial to show that a positive result was found, a negative result of such a test would bear directly on the credibility of the witnesses. If the State uses such testimony despite the knowledge that a strong probability exists that such testimony is false, then Jerry Jones should have that information to

present to the Court for impeachment and other purposes.

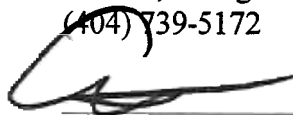
WHEREFORE, JERRY WILLIAM JONES respectfully requests that this Court enter an order directing the State to disclose to the defense whether any of the State's witnesses have been hypnotized for any reason or whether the State has made use of any truth-determining examinations, including, but not limited to, polygraph and sodium pentothal.

DATED this 12 day of May, 2005.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

hereby certify that a copy of the foregoing motion has been mailed to The Office of the District Attorney for Gordon County via first-class United States Postal Service this 19th day of May, 2005.



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IN THE SUPERIOR COURT OF GORDON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,

Indictment No. 16471

v.

JERRY WILLIAM JONES,

ORDER

Upon consideration of Jerry Jones's *Motion for Disclosure of the Use of Hypnosis And The Use And Results of Truth-determining Examinations*, the Court being otherwise sufficiently advised, and good grounds appearing therefore,

IT IS HEREBY ORDERED AND DECREED, that the State disclose to the defense whether any of the State's witnesses have been hypnotized for any reason or whether the State has made use of any truth-determining examinations, including, but not limited to, polygraph and sodium pentothal.

SO ORDERED this day of _____, 20_____.

The Honorable G. Carey Nelson
Judge, Gordon County Superior Court
State of Georgia

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