

DEATH PENALTY/LIFE WITHOUT PAROLE CASE

IN THE SUPERIOR COURT OF GORDON COUNTY
STATE OF GEORGIA

FILED
Clerk Superior Ct., Gordon County

MAY 19 2005

Brian Brannon
Clerk

Indictment No. 16471

FILED
Clerk Superior Ct. Gordon County

MAR 19 2005

Brian Brannon
Clerk

STATE OF GEORGIA,)
)
)
)
)
v.)
)
JERRY WILLIAM JONES,)
)
_____)

NOTICE OF NON-WAIVER OF RIGHTS AND REQUEST FOR EVIDENTIARY HEARING

Mr. Jones, through undersigned counsel, respectfully serves notice upon the State of Georgia, the District Attorney's office, and this Honorable Court that he does not waive and has not waived any Federal or State Constitutional, international, statutory, or common law rights including, but not limited to, those rights and guarantees enumerated in the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, § I, ¶¶ I, II, IV, V, VII, IX, X, XI, XII, XIII, XIV, XVI, XVII, XVIII, XXIV and XXVIII of the Constitution of the State of Georgia, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10 1984, Art 14 and 16, 23 I.L.M. 1027 (Entry into force for the United States November 20, 1994), Inter-American Convention on Human Rights, November 22 1969, Art 4 and 7, 1144 UNTS 123, 9 I.L.M. 673 (Entry into force July 18, 1978), International Covenant of Civil and Political Rights, December 19 1966, Art 2(3) and 6 -7, 999 UNTS 171, 6 I.L.M. 368 (Entry into force for the United States September 8, 1992), Second Optional Protocol to the International Covenant on Civil and Political Rights, December 15

1989, UN GAOR Supp. (No. 49) at 207, UN Doc. A/44/49 (1989) (Entry into force July 11 1991), Article 18, Vienna Convention on the Law of Treaties, May 23 1969, Art 18, 1155 UNTS 331; 8 ILM 679 (Entry into force January 27, 1980), jurisprudential authorities, and all other applicable constitutional, statutory, treaty, customary international law, evolving international standards, and jurisprudential authority. Jerry Jones further asserts that his declaration that he is not waiving any of his protected rights is supported as follows:

1. Mr. 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. “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).

2. 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). The Eighth Amendment and the due process clause require these safeguards. The Supreme Court has held:

[T]he penalty of death is qualitatively different from a sentence of imprisonment, however long. 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). See also, Ford v. Wainwright, 477 U.S. 399, 411 (1986) (“In capital proceedings generally, this Court has demanded that factfinding procedures aspire to a heightened standard of reliability. This especial concern is a natural consequence of the knowledge that execution is the most irremediable and unfathomable of

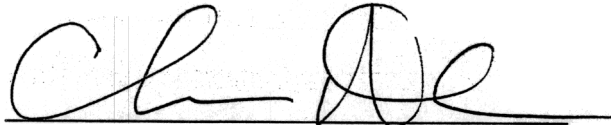
penalties; that death is different.” (citations omitted)); California v. Ramos, 463 U.S. 992, 998-99 (1983) (recognizing “the qualitative difference of death from all other punishments”); Eddings v. Oklahoma, 455 U.S. 104, 110 (1982) (“the imposition of death by public authority is . . . profoundly different from all other penalties”). For this reason, our system of justice must go “to extraordinary measures to ensure that the prisoner sentenced to be executed is afforded process that will guarantee, as much as is humanly possible, that the sentence was not imposed out of whim, passion, prejudice, or mistake.” Eddings v. Oklahoma, 455 U.S. at 118 (O’Connor, J., concurring) (emphasis added). These “extraordinary measures” must be taken at both stages of any capital trial. Beck v. Alabama, 447 U.S. 625, 638 (1980).

3. Whenever a court is faced with the issue of waiver of constitutionally protected rights, “[d]oubts [concerning the existence of a waiver] must be resolved in favor of protecting the constitutional claim,” Michigan v. Jackson, 475 U.S. 625 (1986), and the court must “indulge every reasonable presumption against waiver of fundamental constitutional rights.” Id. (quoting Johnson v. Zerbst, 304 U.S. 458, 464 (1938)).

WHEREFORE, Jerry Jones respectfully hereby notifies this Court and the State of his intention to insist upon a complete assertion of each and every constitutional, international law, statutory, and common law right that is afforded him. Jerry Jones further requests that if there is ever any purported waiver of any a constitutional, international law, statutory or common law right through Jerry Jones’s words, actions, acts or omissions, an evidentiary hearing is hereby requested prior to any party’s acting upon the alleged waiver.

DATED this 19th day of May, 2005

Respectfully Submitted,



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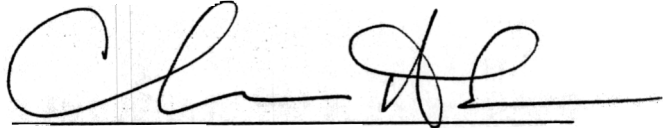
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Counsel for Jerry Jones

CERTIFICATE OF SERVICE

I 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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