

statutory, treaty, customary international law, evolving international standards, jurisprudential authority to require the disclosure of electronic surveillance.

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, (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).

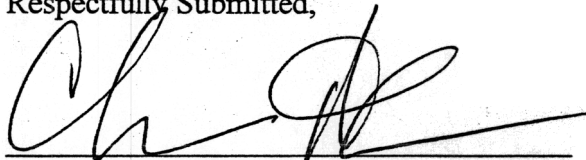
3 Jerry Jones would show that the authority for the demand for this information is set forth, in part, in O.C.G.A. § 16-11-64 (Interception of wire or oral transmissions by law enforcement officers) and 18 U.S.C. § 2516, *et. seq.* (§ 2516: Authorization for interception of wire, oral, or electronic communications; § 2518(10)(a): Exclusionary rule). See also Solomon, Inc. v. Edgar, 92 Ga. App. 207, 88 S.E.2d 167 (1955); Harris v. State, 237 Ga. 718, 230 S.E.2d 1 (1976) (standards for admissibility of sound recordings); Bostic v. State, 183 Ga. App. 430, 359 S.E.2d 201 (1987) (transcripts are secondary evidence); Jackson v. State, 256 Ga. 536, 350 S.E.2d 428 (1986) (admissibility of telephone conversations); see also Electronic Surveillance Manual, Georgia Police Academy, October 1991; Daniels, Handbook on Criminal Evidence.

4. Specifically, Jerry Jones seeks disclosure of the existence of any pen registers, voice recordings, tapes (including Nagra and video tapes), and mechanical or electronic recordings. Jerry Jones also requests disclosure of any logs, transcripts, memoranda or letters relating to any wiretapping, bugging, and electronic, photographic or other similar surveillance.

WHEREFORE, JERRY WILLIAM JONES requests this Court to order the State to disclose any electronic or similar surveillance that may have been conducted relating to this case.

DATED this 12 day of May, 20 05.

Respectfully Submitted,



Christopher Adams, State Bar No. 002725

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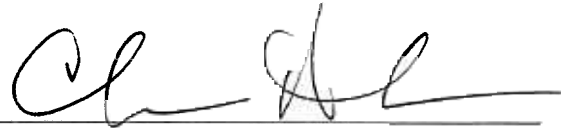


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CERTIFICATE OF SERVICE

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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IN THE SUPERIOR COURT OF GORDON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA,)

Indictment No. 16471

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)
)
JERRY WILLIAM JONES,)
)
)
_____)

ORDER

Upon consideration of Jerry Jones's *Motion for Disclosure of Electronic Surveillance*, the Court being otherwise sufficiently advised, and good grounds appearing therefore,

IT IS HEREBY ORDERED AND DECREED, that the State disclose any electronic or similar surveillance that may have been conducted relating to this case.

SO ORDERED this day of _____, 20 ____.

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

Prepared by:
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Counsel for Jerry Jones