

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.

Rule 11 of the Uniform Rules of Superior Courts provides as follows:

After completion of the examination of jurors upon their voir dire, the parties and their counsel shall be entitled, upon request, to 15 minutes to prepare for jury selection; thereafter, during the selection of jurors, the judge in his discretion, upon first warning counsel, may restrict to

not less than 1 minute the time within which each party may exercise a peremptory challenge; a party shall forfeit a challenge by failing to exercise it within the time allowed.

4.

In order for Mr. Jones to effectively exercise his peremptory challenges, he must have sufficient time to analyze and evaluate the data collected from each juror on voir dire. In a case where an individual is charged with a capital offense and where the jurors' responses and answers to voir dire questions are critical to an effective evaluation of which jurors to strike, the length of time in which he has to review and make a decision is vital.

5.

If a meaningful period of time is not allowed between the conclusion of the examination of the prospective jurors and the actual selection process, the voir dire process becomes -- in large measure--meaningless.

6.

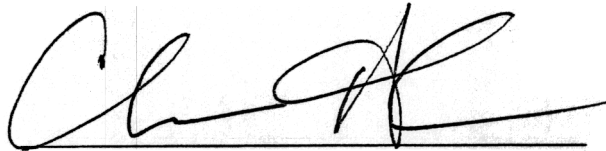
Failure to allow defense counsel expanded time for jury selection would deprive Mr. Jones of the independent state and federal constitutional guarantees to a fair trial and right to present a defense, the effective assistance of counsel, due process of law, to equal protection of the laws, to freedom from cruel and unusual punishment, and a reliable verdict and sentence. Ga. Const. art. I, § I, ¶¶ I, II, IV, V, VII, IX, X, XI, XII, XIII, XIV, XVI, XVII, XVIII, XXIV and XXVIII; U.S. Const. amend. V, VI, VIII and XIV.

WHEREFORE, JERRY WILLIAM JONES respectfully requests that this Court issue an order expanding the times:

- (1) to prepare for jury selection; and
- (2) within which Mr. Jones may exercise his peremptory challenges.

DATED this 13 day of May, 2005.

Respectfully Submitted,



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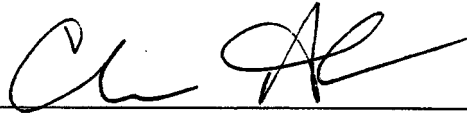


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Counsel for Jerry Jones

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 17th day of May, 20 05.



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"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).

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3.

This Court's attention is called to Rule 10.1 of the Uniform Rules of Superior Court, which provides, *inter alia*,

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[i]n cases in which the death penalty is sought, the trial judge shall address all *Witherspoon* and reverse-*Witherspoon* questions to prospective jurors individually.

See also Cargill v. State, 255 Ga. 616, 627, n.7, 304 S.E. 2d. 891 (1986); Curry v. State, 255 Ga. 215, 219 (1-d), 336 S.E.2d 762 (1985).

4.

Under current Georgia practice, challenges for cause are divided into challenges for principal cause and challenges for favor. A challenge for principal cause is based on grounds which would disqualify the juror as matter of law, and a challenge for favor is based upon some bias which would be determined as a question of fact. See Jordan v. State, 247 Ga. 328, 338, 276 S.E.2d. 224 (1981); Hagans v. State, 77 Ga. App. 513, 48 S.E.2d 700 (1948).

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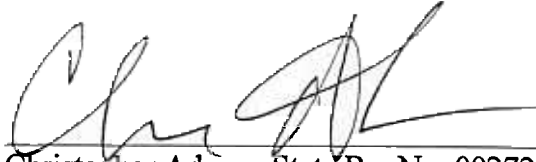
As this Court is aware the legal and/or factual challenge for cause will often require both the State and the defense to raise arguments to this Court which could, if done in the presence of the entire panel of jurors, cause other potentially qualified jurors to be disqualified. The better practice would be to allow the State and the Defense to raise their respective challenges outside the presence of the prospective jurors.

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WHEREFORE, JERRY WILLIAM JONES would respectfully request that this Court allow all challenges for cause to be made outside the presence of all prospective jurors.

DATED this 12 day of May, 2005.

Respectfully Submitted,



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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, 20 05.



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