

In The Supreme Court Of Florida  
Case No. SC03-1229

Michael L. Robinson,  
Petitioner,

v.  
State Of Florida,  
Respondent

RECEIVED  
UNION CORRECTIONAL INSTITUTION

JAN 12 2017

BY: M.G.  
FOR MAILING

Petition For Writ Of Habeas Corpus

Pro Se Capital Petitioner  
Michael L. Robinson \*713735  
Union Correctional Institution  
P.O. Box 1000  
Raiford, FL 32083-1000

Attorney For Petitioner  
James S. Lewis, Esq.  
200 S.E. 6<sup>th</sup> St., Suite 200  
Ft. Lauderdale, FL 33301  
Ph. \*954.523.7949  
Fax \*954.524.0403  
Email: jimlewisforflorida@yahoo.com  
FL Bar No. 318957

FILED

JOHN A. TOMASINO

JAN 17 2017

CLERK, SUPREME COURT

BY

# Introduction

Petitioner, Michael L. Robinson, respectfully petitions this Court for a writ of Habeas Corpus, for the following reasons:

In light of the U.S. Supreme Court ruling in *Hurst v. Florida*, 136 S. Ct. 616 (2016), I re-claim that the Florida Supreme Court violated my 6<sup>th</sup> amendment rights by ordering that I have a "New Penalty Phase" proceeding, "before the Judge alone", after overturning my sentence on direct appeal on Nov. 21<sup>st</sup> 1996, *Robinson v. State* 684 So. 2d 175 (Fla. 1996).

I'm filing this Petition today pro se under the "mailbox Rule", & the precedent set by the U.S. Supreme Court ruling in *Holland v. Florida* on June 14<sup>th</sup> 2010 U.S. Supreme Court case No. 09-5327, because I have not heard from my attorney for 6 months even though I've written to him & requested that "he" file this Petition for me, & I do not want to be procedurally Time Barred if he did not file it.

I ask for special leave<sup>to</sup> amend this Petition by my attorney.

I say that I should qualify for relief under *Hurst*, even though I waived the Jury at my original plea & sentencing hearings, because when this Court granted me a "New Penalty Phase", I asked the Trial Court for a Jury, but the Trial Judge said she could not override this Court's mandate of "before the Judge alone", & she told my Trial attorneys that they would need to petition this Court to allow me to have a Jury. That makes my case different from, *Mullens v. State*, 2016 WL 3348429 (Fla. June 16, 2016).

I also claim that I should qualify for Retroactive review under Hurst, because like James v. State, 615 So.2d 668, 669 (Fla. 1993), I have preserved this 6<sup>th</sup> amendment claim "Prior" to the 2002 Ring ruling, & all thru my appeals. I should be granted a New Penalty Phase w/a Jury.

I also claim that under Hurst, the US Supreme Court deemed that the Florida Death Penalty Sentencing scheme is unconstitutional, & I argue that the "Sentencing" part of a Trial "Is the Death Penalty". The Trial Court doesn't give the Death Penalty during the "Guilt Phase". So that means that the Whole Death Penalty in Florida is unconstitutional, & under Florida Statute 775.082 (2) I should be sent back to the trial Court to be re-sentenced to Life.

The enclosed documents are to show the status of my attorney & my attempts to contact him.

# Informal Grievance

STATE OF FLORIDA  
DEPARTMENT OF CORRECTIONS

Mail Number: P-Dorm  
Team Number: 6  
Institution: U.C.I.

## INMATE REQUEST

TO:  
(Check One)

Warden  
 Asst. Warden

Classification  
 Security

Medical  
 Mental Health

Dental  
 Other

FROM:	Inmate Name <u>Michael L. Robinson</u>	DC Number <u>713735</u>	Quarters <u>P2127</u>	Job Assignment <u>None</u>	Date <u>1.9.17</u>
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### REQUEST

Check here if this is an informal grievance

Sir, I put in a request for an "Emergency Legal Phone Call" on Thur 1.5.17, because I have a Deadline to file an appeal by 1.12.17, even though I've written several letters to my attorney & had my Mother contact his office on my behalf, he has Failed to respond. It is a CH-33 Rule that I am allowed to request an Emergency phone call to my attorney if there's not time to deal with issue by mail, & it must be approved by a Capt. or higher. I have Not Received that phone call, nor any notice from my attorney, & I'm running out of time to file my appeal. I need to make that call by 1.11.17. My attorney is Mr. James S. Lewis, 2008 E. 6th St., Ft. Lauderdale, FL, 33301. Ph: 954.523.7949 Fax: 954.524.0403

All requests will be handled in one of the following ways: 1) Written Information or 2) Personal Interview. All informal grievances will be responded to in writing.

Thank You, Respectfully, Michael Robinson  
#713735

DO NOT WRITE BELOW THIS LINE

RESPONSE

DATE RECEIVED: 01/09/17

Inmate Robinson

Your request was faxed to the number you listed as your attorney. It is his discretion if he wants to initiate a phone call.

[The following pertains to informal grievances only:

Based on the above information, your grievance is Approved. (Returned, Denied, or Approved). If your informal grievance is denied, you have the right to submit a formal grievance in accordance with Chapter 33-103.006, F.A.C.]

Official (Signature): H Taylor Sec Spec. Date: 1/9/17

This form is also used to file informal grievances in accordance with Rule 33-103.005, Florida Administrative Code.

Informal Grievances and Inmate Requests will be responded to within 10 days, following receipt by the appropriate person.

You may obtain further administrative review of your complaint by obtaining form DC1-303, Request for Administrative Remedy or Appeal, completing the form as required by Rule 33-103.006, F.A.C., attaching a copy of your informal grievance and response, and forwarding your complaint to the warden or assistant warden no later than 15 days after the grievance is responded to. If the 15th day falls on a weekend or holiday, the due date shall be the next regular work day.

DC6-236 (Effective )

Incorporated by Reference in Rule 33-103.019, F.A.C.

*Handwritten initials/signature*



ANTONY P. RYAN, DIRECTOR,  
REGIONAL COUNSEL  
OTHER LOCATIONS:

**STATE OF FLORIDA  
OFFICE OF CRIMINAL CONFLICT  
AND CIVIL REGIONAL COUNSEL  
FOURTH DISTRICT**

600 S. ANDREWS AVENUE, 6TH FLOOR  
FORT LAUDERDALE, FLORIDA 33301  
TELEPHONE: (954) 713-1220  
FACSIMILE: (954) 713-1271

Indian River County      Martin County      Okeechobee County      Palm Beach County      Saint Lucie County

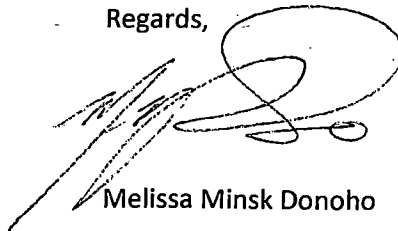
December 11, 2013

Dear Michael,

I'm in receipt of your December 3<sup>rd</sup> letter. I'm sorry you're so frustrated at this point but I honestly have done everything I possibly can to get Jim Lewis to respond to you. I've forwarded your letter to both Todd Scher who represented you in Federal court and Jim Lewis who is now your attorney of record in State court. I was brought in years ago by Jim to assist on your case but he is the attorney appointed to your case from the registry. I have spoken to him on numerous occasions and told him the situation and he indicated to me that he wants to continue to represent you. I've spoken to your mother at length and explained the entire situation to her as well. I am now running the Regional Counsel office in Broward County and couldn't represent you if I wanted to. I didn't write you that I moved because honestly my personal representation of you ended when Todd took over the case in Federal court and it would have been his obligation to keep you informed.

You're frustration at this point needs to be directed at Jim. If you're not satisfied, let the court know your concerns. I don't really blame you and from my perspective, I've done everything within my power to make Jim take responsibility for your case. I can't do much else. I'm hoping upon receipt of your letter that Todd will with correspond with you and send you the documents you feel you are entitled too. I know that whatever I have filed in the past I've always copied you, that is my practice. I really do wish you the best Michael and please know that my power over other people is limited.

Regards,



Melissa Minsk Donoho

Cc Jim Lewis, esq.

IN THE CIRCUIT COURT OF THE NINTH  
JUDICIAL CIRCUIT IN AND FOR ORANGE  
COUNTY, FLORIDA

STATE OF FLORIDA

Plaintiff,

Vs.

MICHAEL ROBINSON,

Defendant.

CASE NO: CR:94-9210

JUDGE: A THOMAS MIHOK

SUPREME COURT CASE NO: SC03-1229

DEFENSE ATTORNEY'S MOTION TO WITHDRAW AS ATTORNEY  
OF RECORD AND TO APPOINT DEATH QUALIFIED COUNSEL

The Defendant, MICHAEL ROBINSON, and his attorney, James S. Lewis, Esq., jointly request this Honorable Court to allow James S. Lewis, Esq., to withdraw as counsel of record and appoint Death Qualified counsel to Michael Robinson.

As grounds therefore the Defendant and his counsel James S. Lewis would allege:

1. James S. Lewis, was appointed by the Honorable Dorothy J. Russell on October 4, 2000 off the Collateral Capital Registry.
2. The undersigned counsel has represented the Defendant in the 3.850 Evidentiary Hearing and the State Appeals. The Defendant was represented by other counsel in his Federal Appeals which have now been exhausted.
3. The Defendant is now or will soon be eligible for a Death Warrant.
4. The Undersigned counsel is no longer doing Death Penalty work and feels incompetent to handle the last minute legal actions necessary once the Death Warrant is issued.

5. The Defendant requests alternative Counsel be appointed to represent him in every effort possible to spare his life.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice has been furnished by email to: State Attorney, Appeals Unit, eservice [pcf@sao9.org](mailto:pcf@sao9.org) and Michael Robinson# 713735, U.C.I – P3212, 7819 NW 228<sup>th</sup> Street, Raiford, FL 32026-4430 on the 28<sup>th</sup> day of February, 2014.

JAMES LEWIS, Esq.  
Attorney for Defendant  
200 S.E. 6<sup>th</sup> Street Suite 200  
Ft. Lauderdale FL 33301  
Phone: (954) 523- 7949  
Fax: (954) 524- 0403  
[jimlewisforflorida@yahoo.com](mailto:jimlewisforflorida@yahoo.com)

By: /S/James S. Lewis  
JAMES S. LEWIS, ESQ.,  
Florida Bar Number 318957