IN THE
Supreme Court of Florida

TIMOTHY LEE HURST,
Appellant,
v. Case No. SC12-1947

STATE OF FLORIDA,
Appellee.

THOMAS BEVEL,
Appellant, Case No. SC14-770
v.

STATE OF FLORIDA,
Appellee.

TERENCE OLIVER,
Appellant,
v. Case No. SC12-1350

STATE OF FLORIDA,
Appellee.

BRIEF OF AMICI CURIAE FLORIDA ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, FLORIDA CAPITAL RESOURCE CENTER, AND FLORIDA CENTER FOR CAPITAL REPRESENTATION ON BEHALF OF APPELLANTS

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TABLE OF CONTENTS

Table of Authorities ii

Statement of Identity and Interests of Amici Curiae iv

Summary of the Argument 1

Arguments and Citations of Authority 3

I. BECAUSE FLORIDA'S DEATH PENALTY WAS HELD UNCONSTITUTIONAL BY THE SUPREME COURT OF THE UNITED STATES IN *HURST V. FLORIDA*, SECTION 775.082(2) OF THE FLORIDA STATUTES REQUIRES THAT ALL PERSONS PREVIOUSLY SENTENCED TO DEATH FOR A CAPITAL FELONY BE BROUGHT BEFORE THE SENTENCING COURT FOR RE-SENTENCING TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE 3

A. Introduction 3

B. Basic rules of statutory construction require that this Court apply the unambiguous, plain language of section 775.082(2) 4

C. Section 775.082(2) unambiguously commands the State's courts to sentence to life imprisonment without parole, all capital felons whose death sentences have been imposed under the statute held unconstitutional in *Hurst v. Florida* 5

D. Because the unambiguous plain language of section 775.082(2) produces a reasonable, non-absurd result, the Court need not consider the statute's legislative history, under its rules of statutory construction 8

E. The legislative history of section 775.082 also supports the remedy required by the statute's plain language 10

F. The rule of lenity also requires re-sentencing to life imprisonment without any opportunity for parole 17

Conclusion 18

Certificate of Service 20

Certificate of Compliance 20

TABLE OF AUTHORITIES

Cases

Alachua Cty. v. Expedia, Inc., 175 So. 3d 730 (Fla. 2015) 16

Anderson v. State, 267 So. 2d 8 (Fla. 1972) 21

Austin v. State ex rel. Christian, 310 So. 2d 289 (Fla. 1975) 20

Bacchus Imports, Ltd. v. Dias, 468 U.S. 263 (1984) 22

Bankston v. Brennan, 507 So. 2d 1385 (Fla. 1987) 22

C.M.T. v. State, 550 So. 2d 126 (Fla. 1st DCA 1989) 18

Diamond Aircraft Indus. Inc. v. Horowitch, 107 So. 3d 362 (Fla. 2013) 16

DIRECTV, Inc. v. State, Dept. of Revenue, 40 Fla. L. Weekly D1375 (Fla. 1st DCA June 1, 2015) 22

Ellis v. N.G.N. of Tampa, Inc., 586 So. 2d 1042 (Fla. 1991) 22

Fla. Dep't of State, Div. of Elections v. Martin, 916 So. 2d 763 (Fla. 2005) 19

Furman v. Georgia, 408 U.S. 238 (1972) 20, 24

Gomez v. Vill. of Pinecrest, 41 So. 3d 180 (Fla. 2010) 17

Grip Dev. Inc. v. Caldwell Banker Residential Real Estate, Inc., 788 So. 2d 262 (Fla. 4th DCA 2000) 18

Hurst v. Florida, __ U.S. __, 136 S. Ct. 616 (2016) 15

In re Baker, 267 So. 2d 331 (Fla. 1972) 20

J.M. v. Gargett, 101 So. 3d 352 (Fla. 2012) 16

Jones v. State, 966 So. 2d 319 (Fla. 2007) 16

Kasischke v. State, 991 So. 2d 803 (Fla. 2008)..... 29

Lamont v. State, 610 So. 2d 435 (Fla. 1992)..... 29

League of Women Voters of Fla. v. Fla. House of Representatives,
132 So. 3d 135 (Fla. 2013)..... 22

Lee County Elec. Coop., Inc. v. Jacobs, 820 So. 2d 297 (Fla. 2002)..... 20

Perkins v. State, 574 So. 2d 1310 (Fla. 1991)..... 29

Raymond James Fin. Servs, Inc., v. Phillips, 126 So. 3d 186 (Fla. 2013)..... 17

Reino v. State, 352 So. 2d 853 (Fla. 1977)..... 29

Samara Dev. Corp. v. Marlow, 556 So. 2d 1097 (Fla. 1990)..... 19

Stanford v. State, 706 So. 2d 90[illegible] (Fla. 1st DCA 1998)..... 18

State v. Burris, 875 So. 2d 408 (Fla. 2004)..... 20

State v. Byars, 823 So. 2d 740 (Fla. 2002)..... 29

State v. Dixon, 283 So. 2d 1 (Fla. 1973)..... 25

Velez v. Miami–Dade County Police Dep't, 934 So. 2d 1162 (Fla. 2006)..... 17

White v. Means, 280 So. 2d 20 (Fla. 1st DCA 1973)..... 18

Wilson v. State, 225 So.2d 321 (Fla.1969)..... 25

Statutes

§ 775.082, Fla. Stat. (1998)..... *passim*

§ 775.082, Fla. Stat. (1998)..... *passim*

STATEMENT OF IDENTITY AND INTEREST OF AMICI CURIAE

The Florida Association of Criminal Defense Lawyers ("FACDL") is a statewide organization representing over 2,000 members, all of whom are criminal defense practitioners. FACDL is a non-profit corporation whose goal is to assist in the reasoned development of Florida's criminal justice system. Its founding purposes are: promoting study and research in criminal law and related disciplines, ensuring the fair administration of criminal justice in the Florida courts, fostering and maintaining the independence and expertise of criminal defense lawyers, and furthering the education of the criminal defense community.

Florida Center for Capital Representation (FCCR) at Florida International University College of Law was founded in 2014 to support defense attorneys representing defendants facing the death penalty in Florida. To that end, FCCR provides free case consultation and litigation-support services, as well as capital-litigation training programs to defense attorneys and mitigation specialists across the State. With a strong emphasis on developing mitigation to obtain death-penalty waivers and pleas, FCCR seeks to train and assist capital-defense teams in resolving cases short of a death sentence.

Florida Capital Resource Center (FCCR) is a nonprofit organization whose mission is to protect the constitutional rights of Florida capital defendants by assisting counsel in providing effective representation. FCRC provides free

consultations, research, training, advocacy, and other resources to capital defendants and their counsel.

The issue before the Court concerns the ramifications for death-sentenced defendants emanating from the Supreme Court's decision in *Hurst v. Florida.* Amici, as academics and attorneys who devote much of their time and efforts to safeguarding the constitutional rights of capital defendants, believe that we have particular interest and expertise in the remedy question that devolves from *Hurst.*

SUMMARY OF THE ARGUMENT

Hurst v. Florida held Florida's death penalty statute unconstitutional. Section 775.082(2), Florida Statutes requires that, in the event the death penalty in a capital felony is held unconstitutional by this Court or the Supreme Court of the United States, the person who has been previously sentenced to death must be re-sentenced to life imprisonment. The statute uses the mandatory directive "shall" and suffers no ambiguity.

Relying on only the plain terms of the statute, the legislative intent is manifest. There are no qualifying or limiting terms. Exceptions are to be narrowly construed, and the one exception, added years after the statute's enactment as a second sentence to the provision, involves the method of execution, not the invalidation of the death-penalty process. Reading the statute *in pari materia*, it is patent that the first sentence establishes the general rule that governs here, while the second permits but one inapposite exception.

Of course, if the result compelled by the statute was "absurd," the Court could look to the statute's legislative history to divine legislative intent. But the consequence of applying the statute as written is in keeping with what the Legislature has long set forth as Florida policy, and with this Court's former practice, even before the statute's effective date. When *Furman v. Georgia* held that three, non-Florida death sentences were unconstitutional, this Court ordered that 100 death-

sentenced Florida defendants have their sentences reduced to life imprisonment. The Court held that that sentence was the maximum that could be imposed on others in the pre-trial stage, thusly affording swift, efficient, equal, and fair application.

But even if resort to legislative history was proper, that history would only augment what the plain language directs. Even after this Court in various decisions granted an across-the-board reprieve, noting in one that the action was consistent with the language of 77.082(2), the Legislature maintained essentially the identical statute that it enacted shortly after certiorari was granted by the Supreme Court in *Furman.* So, before the decision in *Furman*, after the decision in *Furman*, before this Court's mass commutation, as well as long after, the Legislature has consistently maintained the same remedial statute that applied after *Furman*, and must identically apply after *Hurst.*

If any doubt remains, the legislative action in 1998, in which the Legislature left unchanged the controlling statute here but added a second sentence to establish one exception to its application is significant. This exception evinces the legislative awareness of the statute, intent that the overarching remedy remain, with the lone exception if the execution method alone is held unconstitutional.

The final statutory directive, the rule of lenity codified in the Florida statutes, dictates that criminal statutes must be strictly construed. Any question or ambiguity,

if such could be identified, would be required to be resolved in favor of these capital defendants.

ARGUMENT

I. BECAUSE FLORIDA'S DEATH PENALTY WAS HELD UNCONSTITUTIONAL BY THE SUPREME COURT OF THE UNITED STATES IN *HURST V. FLORIDA*, SECTION 775.082(2) OF THE FLORIDA STATUTES REQUIRES THAT ALL PERSONS PREVIOUSLY SENTENCED TO DEATH FOR A CAPITAL FELONY BE BROUGHT BEFORE THE SENTENCING COURT FOR RE-SENTENCING TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

A. Introduction

On January 12, 2016, the Supreme Court of the United States held that Florida's capital sentencing scheme violates the Sixth Amendment to the United States Constitution. *Hurst v. Florida*, __ U.S. __, 136 S. Ct. 616 (2016). The Court stated:

> We hold this sentencing scheme unconstitutional. The Sixth Amendment requires a jury, not a judge, to find each fact necessary to impose a sentence of death. A jury's mere recommendation is not enough.
>
> * * *
>
> Florida's sentencing scheme, which required the judge alone to find the existence of an aggravating circumstance, is therefore unconstitutional.

Id. at 619, 624.

This Court is now grappling with who is affected by *the Hurst* decision and what form of relief should be granted. Amici Curiae believe that the resolution is

conclusively provided by a straightforward application of statutory-construction guidelines to Florida's criminal sentencing statute, section 775.082(2) of the Florida Statutes. This provision provides:

> In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1). No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

Based on a plain-language reading of this statute, persons previously sentenced to death for a capital felony prior to the decision in *Hurst v. Florida*, are entitled to have their death sentences replaced by sentences of life without parole.

B. Basic rules of statutory construction require that this Court apply the unambiguous, plain language of section 775.082(2).

This Court repeatedly has mandated that the judicial examination of a statute begin with its plain language. *See Alachua Cty. v. Expedia, Inc.*, 175 So. 3d 730, 733 (Fla. 2015); *Diamond Aircraft Indus. Inc. v. Horowitch*, 107 So. 3d 362, 367 (Fla. 2013); *J.M. v. Gargett*, 101 So. 3d 352, 356 (Fla. 2012); *Jones v. State*, 966 So. 2d 319, 326 (Fla. 2007). Under this approach, when a statute's text is clear and "conveys a clear and definite meaning, that meaning controls." *Gargett*, 101 So. 3d at 356. This method offers the best means to ascertain and give effect to the legislature's intent in enacting the statute, which serves as the "polestar," as this

Court has often described it, of statutory interpretation. *See Raymond James Fin. Servs, Inc.*, *v. Phillips*, 126 So. 3d 186, 190 (Fla. 2013) (citation omitted); *Hill v. Davis*, 70 So. 3d 572, 575 (Fla. 2011) (a statute's text is the "most reliable and authoritative expression" of the legislature's intent.).

By beginning statutory interpretation with a search for plain meaning, the Court has recognized its own, limited constitutional role: when the text speaks clearly and without ambiguity, the judiciary's proper role is simply to apply it. *See Gomez v. Vill. of Pinecrest*, 41 So. 3d 180, 185 (Fla. 2010) (quoting *Velez v. Miami–Dade County Police Dep't*, 9[illegible] So. 3d 1162, 1164-65 (Fla. 2006)) ("We are without power to construe an unambiguous statute in a way which would extend, modify, or limit, its express terms or its reasonable and obvious implications. To do so would be an abrogation of legislative power.").

In short, this Court, in applying section 775.082(2), should begin and end its interpretation with the statute's plain, unambiguous meaning.

C. Section 775.082(2) unambiguously commands the State's courts to sentence to life imprisonment without parole, all capital felons whose death sentences have been imposed under the statute subsequently held unconstitutional in *Hurst v. Florida.*

The plain language contained in the first sentence of section 775.082(2) could not offer a clearer command: upon the condition precedent that the death penalty in a capital felony is held unconstitutional by this Court or the United States Supreme

Court, the court having original jurisdiction over the case "shall" resentence the defendant to life imprisonment. The statute gives the trial court *no* discretion, as "shall" is presumptively mandatory. *See Grip Dev. Inc. v. Caldwell Banker Residential Real Estate, Inc.*, 788 So. 2d 262, 265 (Fla. 4th DCA 2000); *Stanford v. State*, 706 So. 2d 900, 902 (Fla. 1st DCA 1998); *C.M.T. v. State*, 550 So. 2d 126, 127 (Fla. 1st DCA 1989); *White v. Means*, 280 So. 2d 20, 21 (Fla. 1st DCA 1973).

The Supreme Court in *Hurst* held the Florida death penalty scheme unconstitutional. *Hurst*, 136 S. Ct. at 619 ("Florida's sentencing scheme, which required the judge alone to find the existence of an aggravating circumstance, is therefore unconstitutional."). Thus, the condition precedent of the statute is satisfied and the circuit courts having jurisdiction over Appellants' offenses shall vacate their death sentences and impose sentences of life without parole. *See* § 775.082(2), Fla. Stat.

This remedy is also dictated by the lack of any qualifying or limiting language in the statute. Had the Legislature intended to limit the automatic and obligatory reduction of death sentences to life imprisonment upon the death penalty being held unconstitutional, it could have done so; but it did not. This is underscored by the fact that, in 1998, many years after the statute was enacted, the legislature *did* preclude the replacement of a death sentence with a life sentence, but only based on a state or federal supreme court's holding that the *method of execution* was found

unconstitutional, as opposed to the death penalty. *See* § 775.082(2), Fla. Stat. (1998) App. at 11, 33 (amending statute to add: "No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.") See also Section E, *infra.*

Exceptions in statutes are "narrowly and strictly construed." *See Samara Dev. Corp. v. Marlow*, 556 So. 2d 1097, 1100-01 (Fla. 1990). And the "doctrine of *in pari materia* is a principle of statutory construction that requires that statutes relating to the same subject or object be construed together to harmonize the statutes and to give effect to the Legislature's intent." *Fla. Dep't of State, Div. of Elections v. Martin,* 916 So. 2d 763, 768 (Fla. 2005). Construing together the two sentences, then, the first sentence establishes the general rule, with the second establishing the one exception. As enacted, the section's first sentence—whether read in isolation or in *pari materia* with the second sentence—plainly commands this Court to reduce to a life sentence any death sentence imposed under the statute held unconstitutional by *Hurst v. Florida.*

D. Because the unambiguous plain language of section 775.082(2) produces a reasonable, non-absurd result, the Court need not consider the statute's legislative history, under its rules of statutory construction.

Given the clarity of section 775.082(2), the only context in which this Court could consider its legislative history is if the statute's plain terms would produce an

absurd result. *See State v. Burris*, 875 So. 2d 408, 410 (Fla. 2004) (citing *Lee County Elec. Coop., Inc. v. Jacobs*, 820 So. 2d 297, 303 (Fla. 2002)). But the remedy drawn by the Legislature, as limited in 1998 to *sentences* rather than methods of execution, *see* App. at 11, 33, was and is eminently reasonable. While the constitutional invalidation of a method of execution does not call into question the validity of the underlying death sentence, a conclusion that the process used to impose that death sentence is unconstitutional, does so inescapably. *Cf. Austin v. State ex rel. Christian,* 310 So. 2d 288, 291 (Fla. 1975) (any doubts about the scope of a statute may be resolved by consideration of such factors as convenience, sound public policy, or the "due administration of justice").

To be sure, subsection (2)'s first sentence has widespread implications, especially where the number of inmates on death row has reached 390. But this is not the first time the Court has faced a sweeping outcome following the invalidation of the death penalty, and it is not the first time it has determined that a life sentence (or term of years) must be imposed on every individual convicted of a capital felony and sentenced to death. *See In re Baker*, 267 So. 2d 331, 335 (Fla. 1972) (considering the application of sixty death-sentenced defendants and holding that after *Furman v. Georgia*, 408 U.S. 238 (1972), "it is clearly to the best interest of the public that this Court impose [life] sentences upon. . . all of the . . . persons under penalty of death who have been convicted of [capital] murder," and imposing the same life sentence

on all persons sentenced to death for rape, but remanding the latter class to the circuit courts to allow defendants to file sentence mitigation motions); *Anderson v. State,* 267 So. 2d 8 (Fla. 1972) (holding that death sentences of forty defendants pending on appeal must be vacated following *Furman* and imposing life sentences rather than remanding to the circuit courts for consideration under Rule 3.800, based on the lack of discretion regarding what sentence to impose and the public policy concerns that the Court held justified its exercise of jurisdiction to resentence the appellants).

In short, this Court has previously been faced with the dilemma now presented by *Hurst,* and it did not hold then that the remedy required by section 775.082(2) and (3) was "absurd." Quite the contrary—the Court applied it. The absurd result would arise now only if, by contrast, the Court (1) ordered that almost 400 individuals convicted of capital murder, many of whom have been on death row for a decade or more, be granted a resentencing hearing; (2) attempt to assess the harmlessness of almost 400 Sixth Amendment violations that occurred during unconstitutional procedures yielding a death sentence in every case; or (3) had to manage the protracted litigation that will inevitably result if options (1) or (2) are implemented.

E. The legislative history of section 775.082 also supports the remedy required by the statute's plain language.

While the plain language of a statute provides the first basis of inquiry as to its scope, legislative intent can also be revealed through the application of legislative

history. *See DIRECTV, Inc. v. State, Dept. of Revenue*, 40 Fla. L. Weekly D1375 (Fla. 1st DCA June 11, 2015) (quoting *League of Women Voters of Fla. v. Fla. House of Representatives,* 132 So. 3d 135, 150 (Fla. 2013) (other citations omitted). This Court and the United States Supreme Court have held the same. *See, e.g., Bacchus Imports, Ltd. v. Dias*, 468 U.S. 263, 268, 270-71 (1984) (holding that the statute under review was non-discriminatory based on legislative history, despite plain language in the statute suggesting the contrary); *Bankston v. Brennan,* 507 So. 2d 1385, 1387 (Fla. 1987) ("[W]hen the legislature has actively entered a particular field and has clearly indicated its ability to deal with such a policy question, the more prudent course is for this Court to defer to the legislative branch"); *Ellis v. N.G.N. of Tampa, Inc.*, 586 So. 2d 1042, 1047 (Fla. 1991) ("One method of ascertaining the legislative intent is by tracing the legislative history of the act, the evil to be corrected, and the purpose of the enactment.").

1. This Court previously has attributed legislative intent regarding the language in section 775.082(2) as requiring the imposition of life sentences even in the absence of a supreme court decision categorically banning the death penalty nationwide or in Florida under the Florida or United States Constitutions.

    a. *Senate Bill 153*

Senate Bill 153, enacting section 775.082(2) and (3), was prefiled in August, 1971, just after the Supreme Court granted certiorari in *Furman*. *See Furman v.*

Georgia, 403 U.S. 952 (1972) (granting certiorari June 28, 1971). The provisions provided as follows:

> (2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, **a person who has been convicted of a capital felony** shall be punished by life imprisonment.
>
> (3) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over **a person previously sentenced to death for a capital felony** shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment.

(App. at 1-2) (emphasis added). The preamble to the bill described these provisions as "providing that if the courts declare the death penalty unconstitutional, then those persons to be sentenced or those previously sentenced to death should be sentenced to life without parole." (App. at 1.)

The timing of SB 153 may suggest to some that it was intended solely to provide a reasonable remedy should the United States Supreme Court hold in *Furman* that the death penalty was per se unconstitutional under the Eighth Amendment—*i.e.*, that sections 775.082(2) and (3) were never intended to apply in perpetuity, nor, indeed, if anything *less* than a categorical ban was imposed by the *Furman* Court. However, this Court's decisions in the wake of *Furman* make clear that such suggestion bears no relationship to the actual legislative intent behind the bill.

First, the *Furman* decision did not "declare the death penalty unconstitutional" (quoting Preamble to SB 153 (1971)), nor was the systemic application of the death penalty even explicitly before the Court when it granted certiorari in *Furman. Furman v. Georgia,* 408 U.S. 238, 239 (1972) ("Certiorari was granted limited to the following question: 'Does the imposition and carrying out of the death penalty *in (these cases*) constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments?'") (quoting 403 U.S. 952 (1971) (emphasis added). Rather, the five justices who joined the majority opinion (only a paragraph long), agreed only on the fact that the three death sentences that were before the Court were unconstitutional under the Eighth Amendment.[1]

Second, *this* Court also never explicitly held the "death penalty" unconstitutional, even after *Furman. See Ba*[illegible], 267 So. 2d at 331 ("This Court has itself never declared the death penalty unconstitutional, but has recognized and

[1] The majority holding in *Furman* was as follows:

> The Court holds that the imposition and carrying out of the death penalty in these cases constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. The judgment in each case is therefore reversed insofar as it leaves undisturbed the death sentence imposed, and the cases are remanded for further proceedings. So ordered.

Furman v. Georgia, 408 U.S. 238, 239-40 (1972) (reversing death sentences of two Georgia death row inmates and one Texas death row inmate). Because each of the five justices in the majority wrote separately to explain his reasoning for the result, the portion of the opinion on which they all agreed is only a paragraph long.

followed the decision of the United States Supreme Court in *Furman v. Georgia, Supra*.") (citing *Donaldson*, 265 So. 2d 499, and *Anderson*, 267 So. 2d 8); *State v. Dixon*, 283 So. 2d 1, 7 (Fla. 1973) (Capital punishment is not, Per se, violative of the Constitution of the United States (*Furman v. Georgia*, *supra*) or of Florida. *Wilson v. State*, 225 So.2d 321 (Fla. 1969)).

Nonetheless, the Court "had no difficulty" holding that defendants indicted with a "former" capital offense should automatically be sentenced to life in prison upon conviction, *id.* at 50[illegible], and that the same was the case for defendants who had already been sentenced to death. *Anderson,* 267 So. 2d 8. Notably, in reaching this conclusion, the Court gave

> general consideration to any effect upon the current legislative enactment [referencing § 775.082(3)] to commute present death sentences. . . . **The statute was conditioned upon the very holding which has now come to pass by the U.S. Supreme Court in invalidating the death penalty as now legislated.** This provision is not before us for review and we touch on it only because of its materiality in considering the entire matter.

Donaldson, 265 So. 2d at 505 (emphasis added). *See also id.* at 502 (noting that such result was not only proper under the severability doctrine, but consistent with the Legislature's "express intent" as demonstrated in section 775.082(2), which was to become effective less than three months later) (quoting Chapt. 72-118, Laws of Fla. (1972)).

The effect, then, of *Furman*'s reversal of just three death sentences from Texas and Georgia was a swift, fair, and across-the-board remedy employed even before the statute that commanded it was operative. Months after *Furman,* Chapter 72-118 inexorably went into effect without interruption and the first half of section 775.082(2) (originally numbered section 775.082(3)), has remained unchanged for decades. Thus, any suggestion that it applies, or was meant to apply, solely to the particular circumstances posed by *Furman,* or when this Court or the Supreme Court categorically bans the death penalty—nationwide or in Florida—is incorrect based on this Court's own application of the statute's legislative intent.

b. *The legislative history of section 775.082(2), as demonstrated by amendments and staff analyses, is consistent with the plain language of the statute and this Court's previous application thereof.*

In 1974, after the *Furman* dust had settled and the Court had sentenced to life in prison the class of individuals covered by section 775.082(2) and (3), the Legislature revoked subsection (2), substituting the language from subsection (3) in its place. Chapt. 74-383, s. 5, Laws of Fla. (1974); App. at 11. Because the Legislature revoked the remedy of life without parole as to one class of offenders (capital defendants pending sentencing), but *not* with regard to the other (defendants already sentenced to death), it clearly conducted a thorough review of the statute. Thus, subsection (2) remained intentionally on the books after *Furman*.

Perhaps most compelling, in 1998, the Legislature revisited section 775.082(2) again when doubts arose about the constitutionality of Florida's method of execution. House Bill 3033 proposed adding the following after the first and only sentence previously in subsection (2): "No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States." § 775.082(2), Fla. Stat. (1998); *see also* App. at 31-3.

The House of Representatives' Committee on Crime and Punishment noted that the limitation was proposed to avoid what Justice Harding previously described as a "'constitutional train wreck' with all the people on Death Row having their sentences commuted to life unless an alternative to electrocution is passed by the legislature." CS/HB 3033, Bill Res. & Econ. Impact Stat., at 2 (Feb. 4, 1998) (citing *Anderson,* 267 So. 2d 8; *Furman,* 408 U.S. 238); App. at 36-7.

Thus, the Legislature was aware of the statute and considered its terms. The Legislature, then, chose to make one exception in which a ruling of unconstitutionality based on the Florida's death penalty would not mandate the reduction to life imprisonment for all death-sentenced individuals. That lone exception is where the unconstitutionality of the death penalty is premised on the execution method. The rest of the statute, the general rule for all other holdings of "death-penalty" unconstitutionality, remained, and still remains, untouched.

In short, the 1974 and 1998 amendments to section 775.082(2) demonstrate that the Legislature meant what it said in 1972:

> In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1).

The statute before the Court is not ambiguous, nor is the result urged herein absurd. But should the Court find it necessary to examine the legislative history to determine the legislature's intent, it will find only amplification of the plain language, not inconsistencies therewith.

F. The rule of lenity also requires resentencing to life imprisonment without any opportunity for parole.

If any doubt could remain about the intended application of section 775.082(2), the "Rule of Lenity" dictates that the statute be construed in the manner most favorable to the capital defendant. *See*, *e.g.*, *Reino v. State*, 352 So. 2d 853, 860 (Fla. 1977). This statutory-construction tool has long been codified in the Florida Statutes, providing: "The provisions of this code and offenses defined by other statutes shall be strictly construed; when the language is susceptible of differing constructions, it shall be construed most favorably to the accused." section 775.021(1), Fla. Stat. (1983).

This Court has emphasized that "[o]ne of the most fundamental principles of Florida law is that penal statutes must be strictly construed according to their letter." *Perkins v. State*, 574 So. 2d 1310, 1312 (Fla. 1991). This rule further requires that any ambiguity or susceptibility to differing constructions, must be resolved in favor of the criminal defendant. *State v. Byars*, 823 So. 2d 740, 742 (Fla. 2002). "Words and meanings beyond the literal language may not be entertained nor may vagueness become a reason for broadening a penal statute," *Perkins v. State*, 576 So. 2d at 1312, and where a statute is ambiguous, "it must be construed in the manner most favorable to the accused." *Id.*; *accord Kasischke v. State*, 991 So. 2d 803, 814 (Fla. 2008); *Lamont v. State*, 610 So. 2d 435, 437-38 (Fla. 1992). Indeed, in *Kasischke*, this Court recognized that this lenity rule "is not just an interpretive tool but a statutory directive." 991 So. 2d at 814 (citation omitted).

Section 775.082(2) is neither vague nor ambiguous. The first sentence of the statute is clear in its mandate. But if there could be any ambiguity, it must be resolved in favor of the capital defendant.

CONCLUSION

Based upon the plain and unambiguous language of section 775.082(2), Florida Statutes, Amici Curiae believe that the Court must order the vacatur of the death sentences imposed in these cases and remand them to the circuit courts to resentence each defendant to life imprisonment without the possibility of parole. If

any ambiguity exists, rules of statutory construction, precedent set by the Court, legislative history, and the rule of lenity all compel that same result.

Respectfully submitted,

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Undersigned counsel hereby certify that a true and correct copy of the foregoing has been furnished via email service, this the 1st day of March, 2016, to:

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CERTIFICATE OF COMPLIANCE

Undersigned counsel hereby certifies pursuant to Florida Rule of Appellate Procedure 9.210(a)(2) that this brief complies with the type-font limitation.

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