

IN THE SUPREME COURT OF FLORIDA

CARY MICHAEL LAMBRIX,

Appellant,

Case Nos. SC16-8 & SC16-56

v.

STATE OF FLORIDA,

Appellee.

EMERGENCY MOTION FOR EXTENSION OF TIME
TO FILE MOTION FOR REHEARING

COMES NOW, the Defendant, **CARY MICHAEL LAMBRIX**, by and through his undersigned counsel, and requests an additional seven days to file his motion for rehearing currently due on or before March 24, 2017, meaning the motion would be due on or before March 31, 2017 if this motion is granted. In support thereof, Mr. Lambrix states:

1. The circuit court's denial of relief as to Mr. Lambrix's habeas petition and his Fla. R. Crim. P. 3.851 motion was recently affirmed by this Court in an opinion released on March 9, 2017. The motion for rehearing is presently due on or before March 24, 2017.

2. Since the issuance of *Hurst v. Florida*, Martin J. McClain, one of Mr. Lambrix's CCRC-South attorneys, has significantly contributed to Mr. Lambrix's

death warrant litigation, including presenting the oral argument in the instant cases before this court. His contributions to the litigation team have centered on the Sixth, Eighth, and Fourteenth Amendment implications surrounding Mr. Lambrix's death sentences in light of *Hurst v. Florida* and the resulting changes in law.

3. Earlier today undersigned counsel learned, after being unable to contact Mr. McClain for several days, that on the evening of Sunday, March 19, Mr. McClain fell and hit his head. After the pain and effects of the fall did not subside, Mr. McClain was directed by his personal physician to go to the emergency room.

4. On March 21, Mr. McClain was seen at the emergency room. He was diagnosed with post-concussion syndrome. The doctor prescribed medication, instructed Mr. McClain to rest, and told him to follow-up with a neurologist if symptoms persisted after ten days.

5. Mr. McClain has been unable to work this week on Mr. Lambrix's motion for rehearing, as he has experienced severe headaches and dizziness. Due to the medication he was prescribed, Mr. McClain has not been able to drive. As of today, Mr. McClain reports that he is still in pain and suffering from dizziness. Additionally, Mr. McClain, through his private practice law partner, has today requested an extension of time in other cases. *See State v. Jimenez*, Emergency Motion to Continue Hearing, Case No. 92-34156 (11th Cir. Ct. Mar. 23, 2017).

6. This motion is not being filed for purposes of delay. It is predicated on the unavailability of Mr. McClain due to his head injury. Counsel has contacted opposing counsel who does not object to the instant motion for a seven (7) day extension of time to file the motion for rehearing.

WHEREFORE, based on the foregoing, Mr. Lambrix requests an extension of seven days to file his motion for rehearing in this Court. This is because Mr. McClain has not been able to work on or to complete his section of the motion for rehearing due to the effects of his fall earlier this week.

Respectfully submitted,

NEAL A. DUPREE
Capital Collateral Regional
Counsel–South
Florida Bar No. 311545
dupreen@ccsr.state.fl.us

/s/ William M. Hennis, III
WILLIAM M. HENNIS, III
Florida Bar No. 0066850
Litigation Director CCRC–South
hennisw@ccsr.state.fl.us

MARTIN J. MCCLAIN
Florida Bar No. 0754773
Special Assistant CCRC–South
martymcclain@earthlink.net

JESSICA HOUSTON
Florida Bar No. 0098568
Staff Attorney CCRC–South
houstonj@ccsr.state.fl.us

Capital Collateral Regional
Counsel–South
1 E. Broward Blvd., Ste. 444
Fort Lauderdale, FL 33301
(954) 713-1284

COUNSEL FOR MR. LAMBRIX

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been provided to:
Scott A. Browne, Assistant Attorney General, Office of the Attorney General, 3507
East Frontage Road, Ste. 200, Tampa, FL 33607-7013,
Scott.Browne@myfloridalegal.com; Capital Appeals Intake Box,
capapp@myfloridalegal.com; via email service at *warrant@flcourts.org* this 23rd
day of March 2017.

/s/William M. Hennis, III
WILLIAM M. HENNIS III
Fla. Bar No. 0066850
Litigation Director
hennisw@ccsr.state.fl.us