

**IN THE SUPREME COURT OF FLORIDA  
CASE NOS. SC16-8 & SC16-56**

**CARY MICHAEL LAMBRIX,**

**Appellant,**

**v.**

**STATE OF FLORIDA,**

**Appellee.**

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**CARY MICHAEL LAMBRIX,**

**Petitioner,**

**v.**

**JULIE L. JONES, etc.**

**Respondents.**

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**NOTICE OF FILING OF THE ACCOMPANYING AFFIDAVITS**

**COMES NOW** the Appellant/Petitioner, **CARY MICHAEL LAMBRIX**,  
by and through counsel, and herein files this Notice of Filing of the Accompanying  
Affidavits in the above-entitled matter.

As indicated in Mr. Lambrix's pleadings before this Court requesting an  
evidentiary hearing, undersigned counsel has been investigating the effect that *Hurst*  
*v. Florida* will have on defense counsel's preparation, investigation, and strategies

regarding a capital penalty phase. The attached affidavits are a preliminary proffer of the evidence that Mr. Lambrix seeks to present regarding the impact of *Hurst* on Mr. Lambrix's sentence of death given that his penalty phase was not conducted in a fashion that comported with *Hurst*.

**WHEREFORE**, the Appellant/Petitioner gives notice of the filing of the accompany affidavits.

NEAL A. DUPREE  
Capital Collateral Regional  
Counsel - South  
Fla. Bar No. 311545

Respectfully submitted,

/s/ William M. Hennis, III  
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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 28th day of January 2016.

/s/ William M. Hennis, III  
WILLIAM M. HENNIS, III  
Florida Bar No. 0066850  
Litigation Director CCRC-South

# **ATTACHMENT**

## Affidavit of Edith Georgi, Esq.

My name is Edith Georgi and I have been practicing as an Assistant Public Defender in Miami, Florida since 1981. The focus of my practice for approximately 30 years has been defending persons charged with capital murder. Currently, I am the Coordinator of the Capital Litigation Unit in my office, and have tried approximately nine capital cases but handled over one hundred capital cases which were resolved without a trial. Based on my experience, I offer the following observations in view of the *Hurst* decisions:

1. Considering the *Hurst* requirements, with jurors now making unanimous findings of sufficient aggravating circumstances, the focus of defense preparation will be different. Much more effort and resources will be devoted to defending against the aggravating factors, as the attorneys will need to convince the jurors to reject certain factors.
2. Strategy of the defense, determining whether to put greater focus on the first phase or the second (sentencing) phase will be significantly altered.
3. Jury selection will necessarily be different. There is a well-established method of jury selection called "The Colorado Method" which is used in jurisdictions where jurors will make unanimous findings of aggravating factors, as will be required after *Hurst*. Jury selection employed pre-*Hurst* would not be adequate post-*Hurst*.
4. Peremptory challenges will be exercised differently and thus the entire composition of the jury will be different.
5. Because of the uncertainty of the law—with the legislature contemporaneously discussing how to "fix" the statute – there will be additional issues presented based on the solution of a revised law, and at this point those issues are unknowable.

Under penalty of perjury, I declare that I have read the foregoing document and state that the facts therein are true.

EDITH B. GEORGI Fla. Bar # 333328

Date: January 27, 2016


AFFIANT

Edith B. Georgi

SIGNATURE

3250 Allamanda St. Miami, Fl 33133 305-545-1602

ADDRESS, PHONE, AND EMAIL

 DOROTHY ROBERSON  
MY COMMISSION # FF 232635  
EXPIRES: June 5, 2019  
Bonded Thru Budget Notary Services  
egeorgi@gmail.com



POLK COUNTY            )  
                                  )  
STATE OF FLORIDA    )

### AFFIDAVIT

My name is Peter Mills. I am an Assistant Public Defender, and I serve in the Office of the Public Defender for the 10th Judicial Circuit in Bartow, Florida.

I have been handling death penalty cases in Florida since 1993. I have handled death penalty litigation at various levels (trial, post conviction, and clemency).

Since about 2003, I have served as an author and/or editor of the manual *Defending a Capital Case in Florida*, which is published by the Florida Public Defender Association. I also write a column in *The Defender*, which is published by the Florida Association of Criminal Defense Lawyers, called Death is Different that addresses ongoing death penalty issues.

I have helped organize and/or teach continuing legal education courses regarding capital litigation in the state of Florida since the 1990s.

I was qualified to handle capital post conviction cases as lead counsel in the state of Florida. I am qualified under the Florida rules of criminal procedure 3.112 to handle death penalty cases at the trial level as lead counsel.

I am familiar with the ruling from the U.S. Supreme Court *Hurst v. Florida*. This opinion will have a fundamental impact on the way death penalty trials are handled.

I have given a great deal of thought to how I will change the way I represent my clients facing the death penalty because of *Hurst*. I have discussed these issues with other lawyers, who handle death penalty cases, too.

I know that *Hurst* will affect my case preparation and trial practice.

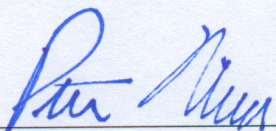
I know that I will have to change the way I approach voir dire, aggravating elements, and other issues in the trial.

However, as of today, no law has been passed to address the Court's ruling. There are competing proposals from interested parties and there are pending bills, but nothing has been forwarded to the governor to become law. Furthermore, the Florida Supreme Court



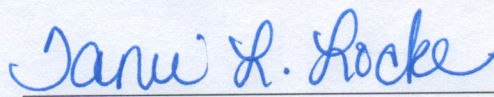
has not yet received a law to consider when adopting new rules and/ or jury instructions. Because of these issues, I cannot foresee or predict all of the things I will need to do to provide my clients with effective assistance of counsel as guaranteed by the Sixth Amendment of United States Constitution.

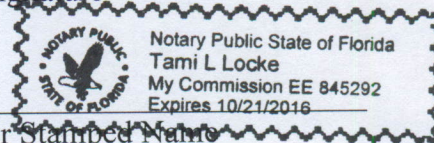
**AFFIDAVIT**

  
\_\_\_\_\_  
Affiant

STATE OF Florida  
COUNTY OF Polk

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of January, 2016, by the individual whose name and signature appear above, and who is personally known to me or produced identification \_\_\_\_\_ and who did make and oath of truthfulness.

  
\_\_\_\_\_  
Notary Signature



\_\_\_\_\_  
Printed or Stamped Name  
Notary Public  
State of Florida