Filing # 96073651 E-Filed 09/20/2019 04:44:21 PM

IN THE SUPREME COURT OF FLORIDA

MICHAEL LAWRENCE WOODBURY,
Appellant, CASE NO.: SC19-0008

vs.

STATE OF FLORIDA,
Appellee.
_____/

RECEIVED, 09/20/2019 04:45:30 PM, Clerk, Supreme Court

MOTION TO ACCEPT OVERSIZED BRIEF

Appellant, Michael Lawrence Woodbury, moves that this Court accept his brief in this cause and says:

1. This is a capital case which Michael Lawrence Woodbury, appeals his death sentence. Section 921.141(4), Florida Statutes, and the Cruel and Unusual Punishment Clause of the state and federal constitutions require full appellate review in capital cases. *See Elledge v. State*, 346 So. 2d 998 (Fla. 1977) and *Proffitt v. Florida*, 428 U.S. 242 (1976). The constitutions also require effective assistance of counsel on appeal.

2. Rule 9.210(a)(5), Florida Rules of Appellate Procedure, provides that initial briefs are not to exceed 100 pages. Counsel now files an initial brief of a 117 pages. This is done after diligent efforts were made to keep the brief as short as possible (reduced from the original draft of 152 pages). Much effort went into editing and revising to effect the reduction of the brief to its current size.

3. The filing of an oversized brief is required due to the number and complexity of the issues. There are 11 points raised. The issues have been explained as concisely as possible. Reference to the evidence has been restricted to only relevant matters. However, extensive summaries of the lengthy *Faretta* inquiries and the comprehensive psychological report are needed to make the discussion of issues understandable to the reader. There could have been a number of separate point headings regarding mitigation but the issues were condensed into one point (Point V) to avoid possible repetitious argument. In addition, a discussion on bipolar disorder was required to effectively raise Point I. Any further reduction of the size of the brief would necessarily result in the elimination of issues, thus impinging on the right to effective assistance of counsel.

4. In view of the foregoing, it is the reasoned professional judgment of counsel that the brief is of an appropriate length given the number and nature of the issues raised.

WHEREFORE, Appellant moves this Court for an order accepting his initial brief.

Respectfully submitted,

CAREY HAUGHWOUT
Public Defender, 15th Judicial Circuit
15th Judicial Circuit of Florida
421 Third Street/6th Floor
West Palm Beach, Florida 33401
(561) 355-7600

/s/ Mara Herbert
Mara Herbert
Assistant Public Defender
Florida Bar No. 0038532
mherbert@pd15.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this motion has been furnished to Rhonda Giger, Assistant Attorney General, 1515 N. Flagler Dr., Suite 900, West Palm Beach, FL 33401 by e-service at CrimAppWPB@MyFloridaLegal.com, and electronically filed with this court on the 20th day of September, 2019.

/s/ Mara Herbert
Of Counsel