

CAPITAL CASE

NO. 18-\_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

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JAMES AREN DUCKETT,

*Petitioner,*

v.

STATE OF FLORIDA,

*Respondent.*

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APPENDIX TO  
PETITION FOR A WRIT OF CERTIORARI TO  
THE FLORIDA SUPREME COURT

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APPENDIX A - Order on Defendant's Successive Motion, Lake County Circuit Court, Case No. 87-CF-1347, 88-CF-0262 (June 18, 2018)

APPENDIX B - *Duckett v. State*, 44 Fla. L. Weekly S56, 2018 LW 6818610 (2018)

APPENDIX C - Persons who will/have obtain(ed) *Hurst* relief under *Mosely*

APPENDIX D - Persons who will not obtain *Hurst* relief under *Asay*

## APPENDIX A

2018 JUN 18 AM 11:22

CLERK OF CIRCUIT  
AND COUNTY COURT  
LAKE COUNTY  
TAVARES FLORIDA

STATE OF FLORIDA

IN THE CIRCUIT COURT OF THE  
FIFTH JUDICIAL CIRCUIT  
IN AND FOR LAKE COUNTY,  
FLORIDA

v.

CASE NO.: 87-CF-1347(01)  
88-CF-0262

JAMES AREN DUCKETT,

Defendant.

\_\_\_\_\_ /

### ORDER ON DEFENDANT'S SUCCESSIVE MOTION

This matter came on for consideration on Defendant's Successive Motion to Vacate Judgments of Conviction and Sentence filed pursuant to Florida Rule of Criminal Procedure 3.851.<sup>1</sup> On or about February 1, 2017, the State filed State's Response to Defendant's Multiple Successive Motion to Vacate Death Sentence. On or about March 13, 2018, the Defendant filed an Amendment to Defendant's Successive Motion to Vacate Judgments of Conviction and Sentence With Special Request for Evidentiary Hearing and Leave to Amend and raised a fifth issue.<sup>2</sup> On or about April 2, 2018, the State filed State's Response to Defendant's Amended Successive Motion to Vacate Judgments of Conviction and Sentence. On May 10, 2018, this Court held a "Huff"<sup>3</sup> hearing to determine whether there was a need to conduct an evidentiary hearing. The Court has read the pleadings including the Defendant's Motion and Appendix, the State's Response, the Defendant's Amendment to Defendant's Successive Motion to Vacate Judgments of Conviction and Sentence with Special Request for Evidentiary Hearing and Leave to Amend, considered the

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<sup>1</sup> When the Defendant filed this Motion, this Court did not have jurisdiction to address it because the Defendant's second successive motion for post-conviction relief was on appeal to the Florida Supreme Court. The Florida Supreme Court denied Defendant's second successive motion for post-conviction relief and the Mandate issued on January 16, 2018.

<sup>2</sup> At the May 10, 2018 hearing, counsel for the Defendant explained that although the Amendment was listed as issue IV, the Amendment was not an amended issue IV but, in fact, a new issue, issue V.

<sup>3</sup> Huff v. State, 622 So. 2d 982 (Fla. 1993).

arguments presented at the "Huff" hearing and has otherwise been fully advised in the premises.

### FACTS

This Court references, adopts and incorporates the facts of this case as found by the Florida Supreme Court in Duckett v. State, 568 So. 2d 891 (Fla. 1990):

Duckett, a police officer for the City of Mascotte, was the only officer on patrol from 7:00 p.m., May 11, 1987, to 7:00 a.m., May 12, 1987. Between 10:00 and 10:30 p.m. on May 11, Teresa McAbee, an eleven-year-old girl, walked a short distance from her home to a convenience store to purchase a pencil. Teresa left the store with a sixteen-year-old Mexican boy, who was doing laundry next door. The boy testified that they walked over to the convenience store's dumpster and talked for about twenty minutes before Duckett approached them. A clerk at the convenience store testified that Duckett entered the store and asked her the girl's name and age, at which time she advised him that Teresa was between ten and thirteen years old. After indicating that he was going to check on her, Duckett exited the store and walked toward the dumpster, where he located the two children. Duckett testified that he conversed with the children and subsequently, acting in his capacity as a police officer, instructed Teresa to return home. The sixteen-year-old boy testified that, after speaking with Duckett, he went to the laundromat to wait for his uncle, who arrived soon thereafter; that Duckett and Teresa were standing near the patrol car; and that Duckett asked the uncle the nephew's age. Subsequently, Duckett suggested that the uncle talk to his nephew while he spoke to Teresa. According to the uncle and the boy, Duckett placed Teresa in the passenger's side of his patrol car and shut the door before proceeding to the driver's side. The uncle also testified that he never saw Teresa touch the hood of Duckett's car.

At approximately 11:00 p.m., Teresa's mother walked to the convenience store, searching for her daughter. Upon arrival, she was told by the store's clerk that Duckett may have taken her daughter to the police station. The mother then left the store and spent about an hour with her sister driving around Mascotte in search of Teresa. During this time, the mother did not see a police car. She next went to the Mascotte police station and, finding no one there, she drove a short distance to the Groveland police station. There, she told an officer that she wanted to report her daughter as missing. The officer told her that he would contact a Mascotte officer to meet her at the Mascotte police station. Teresa's mother returned to the Mascotte police station and waited for fifteen to twenty minutes before Duckett

arrived. After arriving, Duckett told her that he had spoken with Teresa at the store; that she had been in his police car; and that he had directed her to return home. Before returning home, the mother also filed a missing person report with Duckett. Subsequently, Duckett went to the mother's residence to get a picture of her daughter, called the police chief to inform him of the missing person report, and advised the police chief that he had made a flyer and did not need any help in the matter. Duckett then returned to the convenience store with a flyer but told the clerk not to post it since it was not a good picture. Although he told the clerk that he would return with a better one, he never did. Duckett did bring flyers to two other convenience stores. The clerk at one of these stores testified that, while the police usually drove by every forty-five minutes to an hour, Duckett came by at 9:30 p.m. but failed to return until he brought the flyer later that evening. A tape of Duckett's radio calls indicated none between 10:50 p.m. and 12:10 a.m. At 1:15 a.m., Duckett went to the uncle's house to question his nephew about Teresa, and Duckett returned to the mother's home around 3:00 a.m.

Later that morning, a man saw what he believed to be a body in a lake and went to find the police chief, who determined that it was Teresa's body. The lake is less than one mile from the convenience store where Teresa was last seen.

A medical examiner testified that the perpetrator had sexually assaulted the victim while she was alive, strangled her, and then drowned her, causing her death. Prior to this incident, the victim had not engaged in any sexual activity. Blood was found on her underpants but not in or about Duckett's patrol car. Semen was discovered on her jeans.

A technician for the sheriff's department examined the tire tracks at the murder scene and indicated that they were very unusual. While leaving the crime scene, he observed that the tracks of a Mascotte police car appeared to be similar. He stopped his vehicle, examined the tracks, and determined that they were consistent with the tracks at the crime scene. An expert at trial corroborated this evaluation. The tracks were made by Goodyear Eagle mud and snow tires, which are designed for northern driving. While the local tire center had not sold any of those particular tires during its nine years of existence, it had received two sets by mistake and placed them on the two Mascotte police cars.

Evidence revealed that the vehicle which left the impressions had driven through a mudhole. However, no evidence was presented that Duckett cleaned his vehicle, and no debris from the scene was found

in or on his vehicle. Evidence was also presented that Duckett was neat and clean later that night, as if he had just come on duty.

Both Duckett's and Teresa's fingerprints were discovered on the hood of Duckett's patrol car. Duckett's prints were commingled with the victim's, whose prints indicated that she had been sitting backwards on the hood and had scooted up the car.

A pubic hair was found in the victim's underpants. While other experts could not reach a conclusion by comparing that hair with Duckett's pubic hair, Michael Malone, an FBI special agent who had been qualified as an expert in hairs and fibers in forty-two states, examined the hair sample, concluding that there was a high degree of probability that the pubic hair found in her underpants was Duckett's pubic hair. Malone also testified that the pubic hair did not match the hairs of the sixteen-year-old boy, the uncle, or the others who were in contact with the victim that evening.

On June 15, 1987, before his arrest, Duckett gave a statement in which he denied driving his vehicle to the lake that evening. He further stated that the victim had not been on the hood of his patrol car and that he had stopped at the Jiffy store for coffee after the girl went home.

The state presented testimony of three young women who allegedly had sexual encounters with Duckett. Prior to the introduction of this testimony, the trial judge instructed the jury that the testimony was for the limited purpose of showing motive, opportunity, plan, and identification. The first woman, a petite nineteen-year-old, testified that, in either January or February, 1987, she ran into Duckett while she was attempting to find her boyfriend. After indicating that he, too, was searching for her boyfriend, he drove her in his patrol car in search of her boyfriend. While in the car, Duckett placed his hand on her shoulder and attempted to kiss her. After she refused to kiss him, he desisted and she got out of the car. The second woman, a petite eighteen-year-old, stated that, on May 1, 1987, Duckett picked her up while she was walking along the highway. After Duckett drove her to a remote area in an orange grove, he parked the car, placed his hand on her breast, and attempted to kiss her. When she refused to kiss him, he desisted and drove her to where she requested. The third woman, a petite seventeen-year-old, testified that on two occasions, once in February or March, 1987, and again in April or May, 1987, she voluntarily met Duckett at a remote area while he was on patrol and performed oral sex on him.

At trial, Duckett testified that, on the night of the murder, while running stationary radar near the convenience store, he noticed a girl

talking to three Mexicans at a laundromat. After he saw the girl and one of the boys walk over to an ice machine, he went into the store to ask the clerk some questions about the girl. He then left the store, asked the children their ages, requested that they walk to his car, and questioned the boy further. At this time, the boy's uncle arrived at the scene with some other men. Subsequently, Duckett placed the girl in his car while he spoke with the uncle about his nephew. After the boy's uncle left with the other men, Duckett obtained more information from Teresa and told her to go home. He did not see her again after she got out of the car and walked in front of the store.

Duckett also stated that he then returned to the station for a short period of time, went to one of the convenience stores for coffee, and went on patrol. He subsequently responded to a call by a Groveland police officer and returned to the station in Mascotte, where he met the girl's mother. After visiting the uncle's home to ask some questions concerning the girl, he drove to the mother's home to get a picture. He then returned to city hall, called the police chief, and told him he was going to make a poster and contact all the stores.

With regard to Teresa's fingerprints on the hood of his car, he explained that it was possible that she sat on the hood when he was at the convenience store. Duckett denied any involvement with the three women.

The jury found Duckett guilty of sexual battery and first-degree murder. In the penalty phase, the state presented no additional testimony and Duckett presented the testimony of four witnesses. By an eight-to-four vote, the jury recommended a death sentence. The trial judge found two aggravating circumstances, specifically, that the murder was committed during the commission of or immediately after a sexual battery and that the murder was especially heinous, atrocious, or cruel. The trial judge found the existence of one statutory mitigating circumstance, namely, that Duckett had no significant history of prior criminal activity. The trial judge also determined that Duckett's family background and education gave rise to nonstatutory mitigating evidence. After making these findings, the trial judge imposed the death sentence, concluding that the aggravating circumstances outweighed the mitigating circumstances, and sentenced Duckett to life imprisonment for the mandatory minimum of twenty-five years for the sexual battery conviction.

Id. at 892–94.

## ISSUES

The Defendant raises five issues. First, the Defendant argues that pursuant to the United States

Supreme Court ruling in Hurst v. Florida, \_\_\_ U.S. \_\_\_, 136 U.S. 616 (2016) (“Hurst v. Florida”), his death sentence violates the Sixth Amendment. Second, the Defendant contends his death sentence violates the Florida Supreme Court’s decisions in Hurst v. State, 202 So. 3d 40 (Fla. 2016) (“Hurst v. State”) and Perry v. State, 210 So. 3d 630 (Fla. 2016) (“Perry”) as well as the Eighth and Fourteenth Amendments of the United States Constitution. Third, the Defendant asserts the retroactivity rulings in Asay v. State, (“Asay”), 210 So. 3d 1 (Fla. 2016), cert. denied, \_\_\_ U.S. \_\_\_, 138 S.Ct. 41 (2017) and Mosley v. State, 209 So. 3d 1248 (Fla. 2016) (“Mosley”) seemingly permit partial retroactivity and/or category by category retroactivity and/or case by case retroactivity of Florida’s new law in death penalty proceedings, revised section 921.141, Florida Statutes. He asserts these cases inject arbitrariness into Florida’s capital sentence scheme which violates the Eighth Amendment principles enumerated in Furman v. Georgia, 408 U.S. 238 (1972). Fourth, the Defendant contends that the decisions in Hurst v. State and Perry as well as the enactment of the revised sentencing statute, section 921.141, require this Court to revisit the Defendant’s previously presented newly discovered evidence claims, Brady<sup>4</sup> claims and Strickland<sup>5</sup> claims. Fifth, Defendant contends that his death sentence violates the Due Process Clause of the United States Constitution because, under revised section 921.141, death is an authorized sentencing option only upon finding the necessary elements required to convict of the greater offense of capital first-degree murder.

**Issue one:**

The Defendant argues his death sentence violates the Sixth Amendment under the United States Supreme Court ruling in Hurst v. Florida. The Defendant begins by noting that in Hurst v. Florida the United States Supreme Court overruled prior decisions “to the extent they approved Florida’s sentencing scheme in which the judge, independent of a jury’s fact finding, finds the facts necessary for imposition of the death penalty.” Hurst, 202 So. 3d at 44. Relying on the Florida Supreme Court’s decision in Mosley, the Defendant contends the decision in Hurst v. Florida should be applied retroactively to him under both the concept of

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<sup>4</sup> Brady v. Maryland, 373 U.S. 83 (1963).

<sup>5</sup> Strickland v. Washington, 466 U.S. 668 (1984).

fundamental fairness and a Witt<sup>6</sup> analysis. In his Motion, the Defendant raises a number of arguments supporting his contention that fundamental fairness requires the holding of Hurst v. Florida be applied to him. In particular, he cites the fact that the finality of the denial of his habeas petition based on Ring v. Arizona, 536 U.S. 584 (2002) (“Ring”) was after the issuance of Ring. Moreover, the denial of his direct appeal was final closer in time to Ring, thus granting him the benefit.

**Analysis:**

Pursuant to the Florida Supreme Court’s decision in Asay, this Court finds this argument is without merit. In Asay, the defendant argued his death sentence was unconstitutional under Hurst v. Florida and he was entitled to retroactive application of Hurst v. Florida because the Sixth Amendment requires a jury, and not a judge, to find each fact necessary to impose a sentence of death. Asay, 210 So. 3d at 11. The Florida Supreme Court rejected that argument and held that Hurst v. Florida should not apply retroactively to cases that were final prior to when Ring was decided. Asay, 210 So. 3d at 22. Defendant’s sentence became final in 1990. Thus, under the decision in Asay V, he is not entitled to retroactive application of Hurst v. Florida.

This Court finds the Florida Supreme Court’s decision in Gaskin v. State, 218 So. 3d 399 (Fla. 2017) supports this conclusion. In Gaskin, the Defendant’s sentence became final in 1993 and the Florida Supreme Court held that he was not entitled to relief pursuant to its decision in Asay. Gaskin, 218 So. 3d at 401. Significantly, Justice Pariente, concurring in part and dissenting in part, elucidates the issues raised by Gaskin. She stated she would apply Hurst v. Florida to the defendant’s sentence because he, through counsel, challenged the constitutionality of Florida’s capital sentencing statute at trial in 1990 and on direct appeal in 1991. Justice Pariente noted that Gaskin had argued that section 921.141 “was unconstitutional on its face for the reasons espoused by the United States Supreme Court in Ring and Hurst v. Florida and then further explained by this Court in Hurst.” Gaskin, 218 So. 3d at 402 (Pariente, J., concurring in part and dissenting in part). Nonetheless, the Florida Supreme Court applied Asay to Gaskin’s case and denied his motion. Based on the above, issue one is DENIED.

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<sup>6</sup> Witt v. State, 387 So. 2d 922 (Fla. 1980).

**Issue two:**

The Defendant contends his death sentence violates the Florida Supreme Court's decisions in Hurst v. State, and Perry, as well as the Eighth and Fourteenth Amendments of the United States Constitution. Defendant begins his argument by noting the Florida Supreme Court's decision in Hurst v. State broadened the scope of Hurst v. Florida by finding that the Florida Constitution, the Eighth Amendment and evolving standards of decency requires that the jury must be unanimous in its findings for the court to sentence an individual to death. The Florida Supreme Court noted this requirement benefits the administration of justice by enhancing confidence in the result and its reliability. Continuing, the Defendant argues that under the United States Supreme Court's decision in Montgomery v. Louisiana, \_\_\_\_ U.S. \_\_\_\_, 136 S.Ct. 718 (2016), the decision in Hurst v. State must be applied retroactively to his case. Such a decision is required under evolving standards of decency as well as enhancing the reliability of such a decision.

Further, the Defendant argues the Eighth Amendment demands that capital juries understand they have the authority to preclude death. The Defendant notes the jury in his case did not have this understanding. The jury was instructed it would make a recommendation but the judge would make the final decision. Finally, the Defendant notes that some defendants whose sentences were final when Ring was decided, will receive the benefit of Hurst v. State. He maintains this makes it fundamentally unfair to deprive him of the benefits of Hurst v. State and Perry while other defendants in similarly situated positions receive its benefits.

**Analysis:**

Again, pursuant to the Florida Supreme Court's decision in Asay, this Court finds this argument is without merit. This Court finds support for its ruling the Florida Supreme Court's decision in Hitchcock v. State, 226 So. 3d 216 (Fla. 2017). In its opinion, the Florida Supreme Court stated:

We have consistently applied our decision in Asay, denying the retroactive application of Hurst v. Florida as interpreted in Hurst v. State, to defendants whose sentences were final when the Supreme Court decided Ring v. Arizona, 536 U.S. 584, 122 S. Ct. 2428, 153 L.Ed. 2d 556 (2002). . . . Although Hitchcock references various constitutional provisions as a basis for arguments that Hurst v. State should entitle him to a new

sentencing proceeding, these are more than arguments that Hurst v. State, should be applied retroactively to his sentence, which became final prior to Ring. As such, these arguments were rejected when we decided Asay.

Id. at 217 (citations omitted). In her dissent, Justice Pariente noted the defendant had raised an Eighth Amendment argument: “Hitchcock argues that he is entitled to retroactive application of the right to a unanimous jury recommendation for death announced in Hurst under the Eighth Amendment to the United States Constitution.” Id. at 218 (Pariente, J., dissenting). Because of the similarity of the Defendant’s argument and the issues raised in Hitchcock, this Court finds the Florida Supreme Court has considered these arguments and rejected them. Thus, issue two is DENIED.

### **Issue three:**

Defendant argues that the retroactivity rulings in Asay and Mosley inject arbitrariness into Florida’s capital sentencing scheme thereby violating the Eighth Amendment principles annunciated in Furman v. Georgia, 408 U.S. 238 (1972). Citing United States Supreme Court precedent, the Defendant argues the death penalty cannot be imposed in an arbitrary or capricious manner. He contends that in Mosley and Asay, the Florida Supreme Court broke from its own jurisprudence and repudiated the “binary approach” to retroactivity under Witt by suggesting under its holding in Asay that there were just two categories of cases - those cases that became final after Ring was decided and those that became final before Ring was decided.

Further, the Defendant contends that a full analysis of the concurring and dissenting opinions in Mosley and Asay suggest there are more categories of cases that warrant specific consideration under Witt. As a result of such an analysis, he asserts that five justices on the Florida Supreme Court, i.e., a majority, are open to granting the effect to pre-Hurst defendants on a case by case approach or category by category approach. Further, considering the State’s Motion for Rehearing in Mosley, it appears that the State agrees that the partial retroactivity result is unprecedented.

### **Analysis:**

Again, this Court finds this argument without merit. In Lambrix v. State, 227 So. 3d 112 (Fla. 2017), the Florida Supreme Court addressed this issue and rejected Defendant’s arguments. Id. Further, contrary

to Defendant's assertion that five justices are open to granting the effect to pre-Hurst defendants on a case by case approach or category by category approach, the Florida Supreme Court in Hitchcock, emphasized it had consistently applied its decision in Asay V to defendants whose death sentences were final when the United States Supreme Court decided Ring. Hitchcock, 226 So. 3d at 217. Accordingly, issue three is DENIED.

**Issue four:**

The Defendant argues that the Florida Supreme Court's decisions in Hurst v. State and Perry as well as the enactment of the revised sentencing statute, section 921.141, all require jury unanimity in determining whether a defendant should be put to death. He maintains these factors require this Court to revisit the Defendant's previously presented Brady claims, newly discovered evidence claims, his Strickland claims and determine whether the evidence presented would likely result in a life sentence. The Defendant notes that the revised capital sentencing statute which requires a unanimous recommendation for the death penalty did not exist at the time the Defendant presented these claims. Because this law was not available when he filed his claims, he argues his claims must be reevaluated in light of the new Florida law. Citing Hurst v. State, the Defendant continues his argument and contends that jury unanimity provides the highest degree of reliability in the capital sentencing process. Implicit in this is the acknowledgment that death sentences imposed under the old capital sentencing schemes are less reliable. This awareness requires this Court to re-evaluate the Defendant's various prior claims under the new law.

**Analysis:**

As noted previously, this Court finds the Florida Supreme Court's decision in Asay and its progeny require this Court to find that because Defendant's sentence became final in 1990, he is not entitled to retroactive application of Hurst v. Florida. Issue four is DENIED.

**Issue five:**

The Defendant argues that under the Due Process clause of the United States Constitution, his death sentence must be vacated because under revised section 921.141, death is an authorized sentencing option

only upon the finding of the necessary elements required to convict of the greater offense of capital first-degree murder. The underlying basis for the Defendant's assertion is his contention that under revised section 921.141, there are two crimes a person can be convicted for: (1) first-degree murder; and (2) capital first-degree murder. Capital first-degree murder requires a unanimous jury verdict as to the aggravators, sufficiency of the aggravators, etc. He notes the jury did not unanimously find him guilty of all the necessary elements of the greater offense of capital first-degree murder beyond a reasonable doubt. Further, the Defendant argues that the decision in Hurst v. State did not create a new rule, but instead, merely identified the substantive law set forth in the previous enacted version of section 921.141. Further, he contends the jury was not instructed on the requirement that each element of capital first-degree murder be proven beyond a reasonable doubt.

Continuing, the Defendant argues his reasoning is supported by the constitutional prohibition against ex post facto laws, i.e., the substantive criminal law setting forth the elements of capital first-degree murder must have been in existence at the time of the victim's death in order to give him fair notice. He acknowledges that in Victorino v. State, 241 So. 3d 48 (Fla. 2018), the Florida Supreme Court held that Florida's new capital sentencing scheme does not alter the definition of criminal conduct or increase the penalty by the crime of first-degree murder is punished.

**Analysis:**

Once again, this Court finds the Florida Supreme Court's decision in Asay and its progeny require this Court to find that because Defendant's sentence became final in 1990, he is not entitled to retroactive application of Hurst v. Florida. Issue five is DENIED.

Based on the above, this Court finds there is no need to conduct an evidentiary hearing in this case and it is ORDERED and ADJUDGED that the Defendant's Successive Motion to Vacate Judgments of Conviction and Sentence filed pursuant to Florida Rule of Criminal Procedure 3.851 is DENIED. The Defendant has 30 days from the date of this Order to file an appeal.

DONE AND ORDERED in Chambers at Tavares, Lake County, Florida this 18 day of

June, 2018.

  
\_\_\_\_\_  
William G. Law, Circuit Judge

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## APPENDIX B

# Supreme Court of Florida

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No. SC18-1190

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**JAMES AREN DUCKETT,**  
Appellant,

vs.

**STATE OF FLORIDA,**  
Appellee.

December 28, 2018

PER CURIAM.

We have for review James Aren Duckett’s appeal of the postconviction court’s order denying Duckett’s motion filed pursuant to Florida Rule of Criminal Procedure 3.851. This Court has jurisdiction. *See* art. V, § 3(b)(1), Fla. Const.

Duckett’s motion sought relief pursuant to the United States Supreme Court’s decision in *Hurst v. Florida*, 136 S. Ct. 616 (2016), and our decision on remand in *Hurst v. State (Hurst)*, 202 So. 3d 40 (Fla. 2016), *cert. denied*, 137 S. Ct. 2161 (2017). Duckett responded to this Court’s order to show cause arguing why *Hitchcock v. State*, 226 So. 3d 216 (Fla.), *cert. denied*, 138 S. Ct. 513 (2017), should not be dispositive in this case.

After reviewing Duckett’s response to the order to show cause, as well as the State’s arguments in reply, we conclude that Duckett is not entitled to relief.

Duckett was convicted of first-degree murder and sentenced to death following the jury’s recommendation for death by a vote of eight to four, and his sentence of death became final in 1990. *Duckett v. State*, 568 So. 2d 891, 894 (Fla. 1990).

Thus, *Hurst* does not apply retroactively to Duckett’s sentence of death. *See Hitchcock*, 226 So. 3d at 217; *see also Foster v. State*, No. SC18-860, 2018 WL 6379348, at \*2-4 (Fla. Dec. 6, 2018) (explaining why the “elements of ‘capital first-degree murder’ ” argument derived from *Hurst* and the legislation implementing *Hurst* “has no merit”). Accordingly, we affirm the postconviction court’s order denying relief.

It is so ordered.

LEWIS, QUINCE, POLSTON, LABARGA, and LAWSON, JJ., concur.  
CANADY, C.J., and PARIENTE, J., concur in result.

NO MOTION FOR REHEARING WILL BE ALLOWED.

An Appeal from the Circuit Court in and for Lake County,  
William Gray Law, Jr., Judge - Case Nos. 351987CF001347AXXXXX &  
351988CF000262AXXXXX

Mary Elizabeth Wells of the Law Office of M.E. Wells, Atlanta, Georgia; and  
Brittney Nicole Lacy, Staff Attorney, Office of Capital Collateral Regional  
Counsel, Southern Region, Fort Lauderdale, Florida,

for Appellant

Pamela Jo Bondi, Attorney General, Tallahassee, Florida, and Leslie T. Campbell,  
Senior Assistant Attorney General, West Palm Beach, Florida,

for Appellee

## APPENDIX C

## APPENDIX C

### Persons who will/have obtain(ed) Hurst Relief under Mosley<sup>i</sup>

| Item | Name                    | Jury Vote | Circuit | County       |
|------|-------------------------|-----------|---------|--------------|
| 1    | Abdool, Dane            | 10-2      | 9       | Orange       |
| 2    | Altersberger, Joshua    | 9-3       | 10      | Highlands    |
| 3    | Anderson, Charles       | 8-4       | 17      | Broward      |
| 4    | Andres, Rafael          | 9-3       | 11      | Miami-Dade   |
| 5    | Armstrong, Lance        | 9-3       | 17      | Broward      |
| 6    | Ault, Howard            | 10-2      | 17      | Broward      |
| 7    | Bailey, Robert          | 11-1      | 14      | Bay          |
| 8    | Baker, Cornelius        | 9-3       | 7       | Flagler      |
| 9    | Banks, Donald           | 10-2      | 4       | Duval        |
| 10   | Bargo, Michael          | 10-2      | 5       | Marion       |
| 11   | Barnhill, Arthur        | 9-3       | 18      | Seminole     |
| 12   | Belcher, James          | 9-3       | 4       | Duval        |
| 13   | Braddy, Harrel          | 11-1      | 11      | Miami-Dade   |
| 14   | Bradley, Brandon        | 10-2      | 18      | Brevard      |
| 15   | Brookins, Elijah        | 10-2      | 2       | Gadsden      |
| 16   | Brooks, Lamar           | 9-3       | 1       | Okaloosa     |
| 17   | Brown, Thomas           | 8-4       | 4       | Duval        |
| 18   | Butler, Harry           | 11-1      | 6       | Pinellas     |
| 19   | Buzia, John             | 8-4       | 18      | Seminole     |
| 20   | Calhoun, Johnny         | 8-4       | 14      | Holmes       |
| 21   | Calloway, Tavares David | 7-5       | 11      | Miami-Dade   |
| 22   | Campbell, John          | 9-3       | 5       | Citrus       |
| 23   | Cannon, Marvin          | 9-3       | 2       | Gadsden      |
| 24   | Card, James Armando     | 11-1      | 14      | Bay          |
| 25   | Caraballo, Victor*      | 9-3       | 11      | Miami-Dade   |
| 26   | Carr, Emilia            | 7-5       | 5       | Marion       |
| 27   | Carter, Pinkney         | 9-3       | 4       | Duval        |
| 28   | Caylor, Matthew         | 8-4       | 14      | Bay          |
| 29   | Cole, Tiffany           | 9-3       | 4       | Duval        |
| 30   | Conde, Rory             | 9-3       | 11      | Miami-Dade   |
| 31   | Cox, Allen              | 10-2      | 5       | Lake         |
| 32   | Davis, Adam William     | 7-5       | 13      | Hillsborough |
| 33   | Davis, Barry            | 9-3       | 1       | Walton       |
| 34   | Davis, William          | 7-5       | 18      | Seminole     |

|    |                           |      |    |              |
|----|---------------------------|------|----|--------------|
| 35 | Dennis, Labrant           | 11-1 | 11 | Miami-Dade   |
| 36 | Deparvine, William James  | 8-4  | 13 | Hillsborough |
| 37 | Deviney, Randall          | 8-4  | 4  | Duval        |
| 38 | Diaz, Joel                | 9-3  | 20 | Lee          |
| 39 | Doorbal, Noel             | 8-4  | 11 | Miami-Dade   |
| 40 | Doty, Wayne               | 8-4  | 8  | Bradford     |
| 41 | Douglas, Luther           | 11-1 | 4  | Duval        |
| 42 | Dubose, Rasheem           | 8-4  | 4  | Duval        |
| 43 | Durousseau, Paul          | 10-2 | 4  | Duval        |
| 44 | Eaglin, Dwight            | 8-4  | 20 | Charlotte    |
| 45 | Ellerbee, Terry           | 11-1 | 19 | Okeechobee   |
| 46 | England, Richard          | 8-4  | 7  | Volusia      |
| 47 | Evans, Paul               | 9-3  | 19 | Indian River |
| 48 | Evans, Wydell*            | 10-2 | 18 | Brevard      |
| 49 | Fletcher, Timothy         | 8-4  | 7  | Putnam       |
| 50 | Floyd, Maurice            | 11-1 | 7  | Putnam       |
| 51 | Frances, David            | 9-3  | 9  | Orange       |
| 52 | Francis, Carlton          | 8-4  | 15 | Palm Beach   |
| 53 | Franklin, Richard         | 9-3  | 3  | Columbia     |
| 54 | Glover, Dennis            | 10-2 | 4  | Duval        |
| 55 | Gonzalez, Leonard Patrick | 10-2 | 1  | Escambia     |
| 56 | Gosciminski, Andrew       | 9-3  | 19 | St. Lucie    |
| 57 | Gregory, William          | 7-5  | 7  | Volusia      |
| 58 | Guzman, James             | 11-1 | 7  | Volusia      |
| 59 | Guzman, Victor            | 7-5  | 11 | Miami-Dade   |
| 60 | Hall, Donte               | 8-4  | 5  | Lake         |
| 61 | Hampton, John             | 9-3  | 6  | Pinellas     |
| 62 | Hayward, Steven           | 8-4  | 19 | St. Lucie    |
| 63 | Herard, James             | 8-4  | 17 | Broward      |
| 64 | Hernandez, Michael        | 11-1 | 1  | Santa Rosa   |
| 65 | Hernandez-alberto, Pedro  | 10-2 | 13 | Hillsborough |
| 66 | Hertz, Guerry             | 10-2 | 2  | Wakulla      |
| 67 | Heyne, Justin             | 10-2 | 18 | Brevard      |
| 68 | Hobart, Robert            | 7-5  | 1  | Santa Rosa   |
| 69 | Hodges, Willie            | 10-2 | 1  | Escambia     |
| 70 | Hojan, Gerhard            | 9-3  | 17 | Broward      |
| 71 | Hoskins, Johnny           | 11-1 | 18 | Brevard      |
| 72 | Huggins, John             | 9-3  | 9  | Orange       |

|     |                                |       |    |              |
|-----|--------------------------------|-------|----|--------------|
| 73  | Hunter, Jerone                 | 10-2  | 7  | Volusia      |
| 74  | Hurst, Timothy                 | 7 - 5 | 1  | Escambia     |
| 75  | Israel, Connie                 | 11-1  | 7  | Putnam       |
| 76  | Jackson, Kenneth               | 11-1  | 13 | Hillsborough |
| 77  | Jackson, Kim                   | 8-4   | 4  | Duval        |
| 78  | Jackson, Michael               | 8-4   | 4  | Duval        |
| 79  | Jackson, Ray                   | 9-3   | 7  | Volusia      |
| 80  | Jeffries, Kevin                | 10-2  | 14 | Bay          |
| 81  | Johnson, Paul Beasley          | 11-1  | 10 | Polk         |
| 82  | Johnson, Richard               | 11-1  | 19 | St. Lucie    |
| 83  | Jordan, Joseph                 | 10-2  | 7  | Volusia      |
| 84  | King, Cecil                    | 8-4   | 4  | Duval        |
| 85  | Kirkman, Vahteice              | 10-2  | 18 | Brevard      |
| 86  | Kocaker, Genghis               | 11-1  | 6  | Pinellas     |
| 87  | Kopsho, William                | 10-2  | 5  | Marion       |
| 88  | Lawrence, Jonathan             | 11-1  | 1  | Santa Rosa   |
| 89  | Lebron, Jermaine               | 7-5   | 9  | Osceola      |
| 90  | Lebron, Joel                   | 9-3   | 11 | Miami-Dade   |
| 91  | Looney, Jason                  | 10-2  | 2  | Wakulla      |
| 92  | Lugo, Daniel                   | 11-1  | 11 | Miami-Dade   |
| 93  | Martin, Arthur                 | 9-3   | 4  | Duval        |
| 94  | Martin, David                  | 9-3   | 4  | Clay         |
| 95  | Matthews, Douglas              | 10-2  | 7  | Volusia      |
| 96  | McCoy, Richard (Rashid, Jamal) | 7-5   | 4  | Duval        |
| 97  | McCoy, Thomas                  | 11-1  | 1  | Walton       |
| 98  | McGirth, Renaldo               | 11-1  | 5  | Marion       |
| 99  | McKenzie, Norman               | 10-2  | 7  | St. Johns    |
| 100 | McClean, Derrick               | 9-3   | 9  | Orange       |
| 101 | McMillian, Justin              | 10-2  | 4  | Duval        |
| 102 | Merck, Troy                    | 9-3   | 6  | Pinellas     |
| 103 | Miller, Lionel                 | 11-1  | 9  | Orange       |
| 104 | Morris, Dontae                 | 10-2  | 13 | Hillsborough |
| 105 | Mosley, John                   | 8-4   | 4  | Duval        |
| 106 | Murray, Gerald                 | 11-1  | 4  | Duval        |
| 107 | Nelson, Micah                  | 9-3   | 10 | Polk         |
| 108 | Newberry, Rodney               | 8-4   | 4  | Duval        |
| 109 | Okafor, Bessman                | 11-1  | 9  | Orange       |
| 110 | Orme, Roderick                 | 11-1  | 14 | Bay          |

|     |                              |           |    |              |
|-----|------------------------------|-----------|----|--------------|
| 111 | Pagan, Alex                  | 7-5       | 17 | Broward      |
| 112 | Parker, J.B.                 | 11-1      | 19 | Martin       |
| 113 | Partin, Phillip              | 9-3       | 6  | Pasco        |
| 114 | Pasha, Khalid                | 11-1      | 13 | Hillsborough |
| 115 | Patrick, Eric                | 7-5       | 17 | Broward      |
| 116 | Peterson, Charles            | 8-4       | 6  | Pinellas     |
| 117 | Peterson, Robert             | 7-5       | 4  | Duval        |
| 118 | Pham, Tai                    | 10-2      | 18 | Seminole     |
| 119 | Phillips, Galante            | 7-5       | 4  | Duval        |
| 120 | Poole, Mark                  | 11-1      | 10 | Polk         |
| 121 | Rigterink, Thomas            | 7-5       | 10 | Polk         |
| 122 | Rimmer, Robert               | 9-3       | 17 | Broward      |
| 123 | Robards, Richard             | 7-5       | 6  | Pinellas     |
| 124 | Rodgers, Theodore            | 8-4       | 9  | Orange       |
| 125 | Schoenwetter, Randy          | 10-2      | 18 | Brevard      |
| 126 | Seibert, Michael             | 9-3       | 11 | Miami-Dade   |
| 127 | Serrano, Nelson              | 9-3       | 10 | Polk         |
| 128 | Sexton, John                 | 10-2      | 6  | Pasco        |
| 129 | Sheppard, Billy              | 8-4       | 4  | Duval        |
| 130 | Simmons, Eric                | 8-4       | 5  | Lake         |
| 131 | Simpson, Jason               | 8-4, 9-3  | 4  | Duval        |
| 132 | Smith, Corey                 | 10-2      | 11 | Miami-Dade   |
| 133 | Smith, Joseph                | 10-2      | 12 | Sarasota     |
| 134 | Smith, Sean (Dolan, Darling) | 11-1      | 9  | Orange       |
| 135 | Smith, Stephen               | 9-3       | 20 | Charlotte    |
| 136 | Smith, Terry                 | 8-4, 10-2 | 4  | Duval        |
| 137 | Snelgrove, David             | 8-4       | 7  | Flagler      |
| 138 | Taylor, John                 | 10-2      | 4  | Clay         |
| 139 | Tisdale, Eriese              | 9-3       | 19 | St. Lucie    |
| 140 | Troy, John                   | 11-1      | 12 | Sarasota     |
| 141 | Turner, James                | 10-2      | 7  | St. Johns    |
| 142 | Victorino, Troy              | 11-1      | 7  | Volusia      |
| 143 | Wade, Alan                   | 11-1      | 4  | Duval        |
| 144 | Wheeler, Jason               | 10-2      | 5  | Lake         |
| 145 | White, Dwayne                | 8-4       | 18 | Seminole     |
| 146 | White, William Melvin        | 10-2      | 9  | Orange       |
| 147 | Wilcox, Darious              | 7-5       | 17 | Broward      |
| 148 | Williams, Donald             | 9-3       | 5  | Lake         |

|     |                  |      |    |          |
|-----|------------------|------|----|----------|
| 149 | Williams, Ronnie | 10-2 | 17 | Broward  |
| 150 | Woodel, Thomas   | 7-5  | 10 | Polk     |
| 151 | Wright, Ralph*   | 7-5  | 6  | Pinellas |
| 152 | Zommer, Todd     | 10-2 | 9  | Osceola  |

\*Persons resentenced to life on a different issue (Mr. Caraballo), died of natural causes (Mr. Evans) or exonerated (Mr. Wright).

Hannah Gorman,  
The Center for Florida Capital Representation at Florida International University  
College of Law  
March 14, 2019.

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<sup>i</sup> Information based upon a review of the cases of individuals listed on Department of Corrections, *Death Row Roster* (Spring 2016), available at <http://www.dc.state.fl.us/OffenderSearch/deathrowroster.aspx>

## APPENDIX D

## APPENDIX D

### Persons who will not obtain *Hurst* Relief under *Asay*<sup>i</sup>

| Item | Name                     | Finality Date         | Jury Vote   | Circuit | County       |
|------|--------------------------|-----------------------|-------------|---------|--------------|
| 1    | Alston, Pressley         | 3/17/1999             | 9-3         | 4       | Duval        |
| 2    | Anderson, Richard        | 10/7/1991             | 11-1        | 13      | Hillsborough |
| 3    | Arbelaez, Guillermo      | 5/23/1994             | 11-1        | 11      | Miami-Dade   |
| 4    | Archer, Robin            | 10/7/1996             | 7-5         | 1       | Escambia     |
| 5    | Asay, Mark *             | 10/7/1991             | 9-3         | 4       | Duval        |
| 6    | Atwater, Jeffrey         | 4/18/1994             | 11-1        | 6       | Pinellas     |
| 7    | Bates, Kayle             | 10/5/1987             | 9-3         | 14      | Bay          |
| 8    | Beasley, Curtis          | 12/21/2000            | 10-2        | 10      | Polk         |
| 9    | Blanco, Omar             | 5/12/1997             | 10-2        | 17      | Broward      |
| 10   | Bogle, Brett             | 11/13/1995            | 10-2        | 13      | Hillsborough |
| 11   | Booker, Stephen          | 5/14/2001             | 8-4         | 8       | Alachua      |
| 12   | Bradley, Donald          | 1/16/1998             | 10-2        | 4       | Clay         |
| 13   | Branch, Eric Scott*      | 5/12/1998             | 10-2        | 1       | Escambia     |
| 14   | Brown, Paul Alfred       | 10/9/2001             | 7-5         | 13      | Hillsborough |
| 15   | Cave, Alphonso           | 10/4/1999             | 11-1        | 6       | Pinellas     |
| 16   | Cherry, Roger*           | 4/16/1990             | 9-3         | 7       | Volusia      |
| 17   | Clark, Ronald            | 9/13/1982             | 11-1        | 4       | Duval        |
| 18   | Consalvo, Robert A.      | 10/11/2000            | 11-1        | 17      | Broward      |
| 19   | Cumming-el, Frederick W. | 6/16/1997             | 8-4         | 11      | Miami-Dade   |
| 20   | Davis, Mark              | 9/4/1992              | 8-4         | 6       | Pinellas     |
| 21   | Davis, Toney             | 6/15/1998             | 11-1        | 4       | Duval        |
| 22   | Derrick, Samuel Jason    | 1/23/1995             | 7-5         | 6       | Pasco        |
| 23   | Dillbeck, Donald         | 3/20/1995             | 8-4         | 2       | Leon         |
| 24   | Downs, Ernest            | 11/3/1980             | 8-4         | 4       | Duval        |
| 25   | Doyle, Daniel            | 1/3/1985              | 8-4         | 17      | Broward      |
| 26   | Duckett, James           | 12/10/2001            | 8-4         | 5       | Lake         |
| 27   | Evans, Steven            | 12/10/2001            | 11-1        | 9       | Orange       |
| 28   | Finney, Charles          | 1/22/1996             | 9-3         | 13      | Hillsborough |
| 29   | Ford, James              | 5/28/2002             | 11-1        | 20      | Charlotte    |
| 30   | Foster, Charles          | 10/1/1979             | 8-4         | 14      | Bay          |
| 31   | Foster, Kevin            | 1/22/2001             | 9-3         | 20      | Lee          |
| 32   | Fotopoulos, Konstantin   | 5/17/1993             | 8-4         | 7       | Volusia      |
| 33   | Franqui, Leonardo        | 3/23/1998<br>1/8/2002 | 9-3<br>10-2 | 11      | Miami-Dade   |
| 34   | Freeman, John            | 6/28/1991             | 9-3         | 4       | Duval        |

|    |                   |            |                    |    |              |
|----|-------------------|------------|--------------------|----|--------------|
| 35 | Gamble, Guy       | 2/20/1996  | 10-2               | 5  | Lake         |
| 36 | Gaskin, Louis     | 9/4/1992   | 8-4                | 7  | Flagler      |
| 37 | Gonzalez, Ricardo | 4/6/1998   | 8-4                | 11 | Miami-Dade   |
| 38 | Gordon, Robert    | 1/16/1998  | 9-3                | 6  | Pinellas     |
| 39 | Griffin, Michael  | 5/30/2002  | 10-2               | 11 | Miami-Dade   |
| 40 | Gudinas, Thomas   | 10/20/1997 | 10-2               | 20 | Collier      |
| 41 | Haliburton, Jerry | 6/28/1991  | 9-3                | 15 | Palm Beach   |
| 42 | Hamilton, Richard | 6/26/1998  | 10-2               | 3  | Hamilton     |
| 43 | Hartley, Kenneth  | 10/6/1997  | 9-3                | 4  | Duval        |
| 44 | Harvey, Harold    | 2/21/1989  | 11-1               | 19 | Indian River |
| 45 | Heath, Ronald     | 6/26/1995  | 10-2               | 8  | Alachua      |
| 46 | Herring, Ted*     | 11/5/1984  | 8-4                | 7  | Volusia      |
| 47 | Hitchcock, James  | 12/4/2000  | 10-2               | 9  | Orange       |
| 48 | Hodges, George    | 11/29/1993 | 10-2               | 13 | Hillsborough |
| 49 | Holland, Albert   | 10/1/2001  | 8-4                | 17 | Broward      |
| 50 | Hunter, James     | 2/20/1996  | 9-3                | 7  | Volusia      |
| 51 | Jackson, Etheria  | 1/23/1989  | 7-5                | 4  | Duval        |
| 52 | James, Edward     | 12/1/1997  | 11-1               | 18 | Seminole     |
| 53 | Jeffries, Sonny   | 10/9/2001  | 11-1               | 9  | Orange       |
| 54 | Jennings, Brandy  | 6/24/1999  | 10-2               | 20 | Collier      |
| 55 | Jennings, Bryan   | 2/22/1988  | 11-1               | 18 | Brevard      |
| 56 | Johnson, Emanuel  | 4/22/1996  | 8-4, 10-2          | 12 | Sarasota     |
| 57 | Johnson, Ronnie   | 1/26/1998  | 7-5, 9-3           | 11 | Miami-Dade   |
| 58 | Jones, Harry      | 6/19/1995  | 10-2               | 2  | Leon         |
| 59 | Jones, Marvin     | 10/6/1997  | 10-2               | 4  | Duval        |
| 60 | Jones, Randall    | 10/4/1993  | 9-3                | 7  | Putnam       |
| 61 | Jones, Victor     | 10/2/1995  | 10-2               | 11 | Miami-Dade   |
| 62 | Kelley, William   | 10/6/1986  | 8-3 (Not in error) | 10 | Highlands    |
| 63 | Kilgore, Dean*    | 10/6/1997  | 8-4                | 10 | Polk         |
| 64 | Lambrix, Michael* | 5/12/1997  | 11-1               | 20 | Glades       |
| 65 | Lawrence, Gary    | 1/20/1998  | 10-2               | 1  | Santa Rosa   |
| 66 | Lightbourn, Ian   | 2/21/1984  | 7-5                | 5  | Marion       |
| 67 | Lucas, Harold     | 10/4/1993  | 9-3                | 20 | Lee          |
| 68 | Lukehart, Andrew  | 6/25/2001  | 9-3                | 4  | Duval        |
| 69 | Marshall, Matthew | 5/17/1993  | Override           | 19 | Martin       |
| 70 | Mcdonald, Meryl   | 9/17/1999  | 9-3                | 6  | Pinellas     |
| 71 | Melton, Antonio   | 10/31/1994 | 8-4                | 1  | Escambia     |
| 72 | Mendoza, Marbel   | 10/5/1998  | 7-5                | 11 | Miami-Dade   |
| 73 | Miller, David     | 10/24/2000 | 7-5                | 4  | Duval        |
| 74 | Moore, Thomas     | 4/20/1998  | 9-3                | 4  | Duval        |

|     |                     |            |               |    |              |
|-----|---------------------|------------|---------------|----|--------------|
| 75  | Morris, Robert      | 2/21/2002  | 8-4           | 10 | Polk         |
| 76  | Morton, Alvin       | 9/28/2001  | 11-1          | 6  | Pasco        |
| 77  | Muehleman, Jeffrey  | 10/5/1987  | 10-2          | 6  | Pinellas     |
| 78  | Mungin, Anthony     | 10/6/1997  | 7-5           | 4  | Duval        |
| 79  | Nixon, Joe          | 10/7/1991  | 10-2          | 2  | Leon         |
| 80  | Oats, Sonny         | 10/7/1985  | Not on Record | 5  | Marion       |
| 81  | Occhicone, Dominick | 5/20/1991  | 7-5           | 6  | Pasco        |
| 82  | Overton, Thomas     | 5/13/2002  | 8-4           | 16 | Monroe       |
| 83  | Owen, Duane         | 10/13/1992 | 10-2          | 15 | Palm Beach   |
| 84  | Pace, Bruce         | 10/5/1992  | 7-5           | 1  | Santa Rosa   |
| 85  | Peede, Robert       | 6/23/1986  | 11-1          | 9  | Orange       |
| 86  | Peterka, Daniel     | 1/23/1995  | 8-4           | 1  | Okaloosa     |
| 87  | Phillips, Harry     | 1/28/1985  | 7-5           | 11 | Miami-Dade   |
| 88  | Pietri, Noberto     | 6/19/1995  | 8-4           | 15 | Palm Beach   |
| 89  | Pittman, David      | 5/15/1995  | 9-3           | 10 | Polk         |
| 90  | Ponticelli, Anthony | 10/18/1993 | 9-3           | 5  | Marion       |
| 91  | Pooler, Leroy       | 10/5/1998  | 9-3           | 15 | Palm Beach   |
| 92  | Pope, Thomas        | 1/11/1984  | 9-3           | 17 | Broward      |
| 93  | Puiatti, Carl       | 10/3/1988  | 11-1          | 6  | Pasco        |
| 94  | Randolph, Richard   | 11/16/1990 | 8-4           | 7  | Putnam       |
| 95  | Reaves, William     | 11/7/1994  | 10-2          | 19 | Indian River |
| 96  | Reed, Grover        | 10/1/1990  | 11-1          | 4  | Duval        |
| 97  | Reese, John         | 3/5/2001   | 8-4           | 4  | Duval        |
| 98  | Rhodes, Richard     | 12/5/1994  | 10-2          | 6  | Pinellas     |
| 99  | Rose, James         | 4/25/1985  | 9-3           | 13 | Hillsborough |
| 100 | Rose, Milo          | 8/16/1985  | 9-3           | 6  | Pinellas     |
| 101 | San Martin, Pablo   | 10/5/1998  | 9-3           | 11 | Miami-Dade   |
| 102 | Scott, Paul         | 12/13/1982 | 7-5           | 15 | Palm Beach   |
| 103 | Shere, Richard      | 9/4/1991   | 7-5           | 5  | Hernando     |
| 104 | Sireci, Henry       | 11/4/1991  | 11-1          | 9  | Orange       |
| 105 | Sliney, Jack        | 2/23/1998  | 7-5           | 20 | Charlotte    |
| 106 | Smith, Derrick      | 2/21/1995  | 8-4           | 6  | Pinellas     |
| 107 | Sochor, Dennis      | 2/22/1994  | 10-2          | 17 | Broward      |
| 108 | Spencer, Dusty Ray  | 10/6/1997  | 7-5           | 9  | Orange       |
| 109 | Stein, Steven       | 10/3/1994  | 10-2          | 4  | Duval        |
| 110 | Stephens, Jason     | 11/13/2001 | 9-3           | 4  | Duval        |
| 111 | Stewart, Kenneth    | 4/6/1992   | 10-2          | 13 | Hillsborough |
| 112 | Suggs, Ernest       | 4/24/1995  | 7-5           | 1  | Walton       |
| 113 | Sweet, William      | 2/28/1994  | 10-2          | 4  | Duval        |
| 114 | Taylor, Perry       | 11/14/1994 | 8-4           | 13 | Hillsborough |
| 115 | Taylor, Steven      | 10/3/1994  | 10-2          | 4  | Duval        |

|     |                    |            |               |    |            |
|-----|--------------------|------------|---------------|----|------------|
| 116 | Thomas, William    | 11/17/1997 | 11-1          | 4  | Duval      |
| 117 | Thompson, William  | 3/1/1988   | 7-5           | 11 | Miami-Dade |
| 118 | Trease, Robert     | 10/11/2000 | 11-1          | 12 | Sarasota   |
| 119 | Trepal, George     | 1/18/1994  | 9-3           | 10 | Polk       |
| 120 | Trotter, Melvin    | 10/6/1997  | 11-1          | 12 | Manatee    |
| 121 | Walton, Jason      | 1/8/1990   | 9-3           | 10 | Pinellas   |
| 122 | Watts, Tony        | 6/22/1992  | 7-5           | 4  | Duval      |
| 123 | Whitfield, Ernest  | 10/5/1998  | 7-5           | 12 | Sarasota   |
| 124 | Willacy, Chadwick  | 11/10/1997 | 11-1          | 18 | Brevard    |
| 125 | Williamson, Dana   | 4/28/1997  | 11-1          | 17 | Broward    |
| 126 | Wright, Joel       | 1/21/1986  | 9-3           | 7  | Putnam     |
| 127 | Zack, Michael      | 10/2/2000  | 11-1          | 1  | Escambia   |
| 128 | Zakrzewski, Edward | 1/25/1999  | 7-5, Override | 1  | Okaloosa   |
| 129 | Zeigler, William   | 3/22/1982  | Override      | 4  | Duval      |

\*Persons who were executed (Mr. Asay, Mr. Branch, Mr. Lambrix), died of natural causes (Mr. Kilgore) or resentenced to life (Mr. Cherry, Mr. Herring)

Hannah Gorman  
The Center for Florida Capital Representation at Florida International University  
College of Law  
March 14, 2019.

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<sup>i</sup> Information based upon a review of the cases of individuals listed on Department of Corrections, *Death Row Roster* (Spring 2016), available at <http://www.dc.state.fl.us/OffenderSearch/deathrowroster.aspx>

IN THE  
SUPREME COURT OF THE UNITED STATES

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No. 18-\_\_\_\_\_

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**JAMES AREN DUCKETT,**  
*Petitioner,*

**v.**

**STATE OF FLORIDA,**  
*Respondent.*

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CERTIFICATE OF SERVICE

---

This is to certify that I have served a copy of the foregoing pleading upon  
counsel for Respondent by mail, first class postage prepaid, at the following address:

Leslie T. Campbell  
Senior Asst. Attorney General  
Office of the Attorney General  
1515 N. Flagler Drive – Suite 900  
West Palm Beach, Florida 33410

Dated this the 28<sup>th</sup> day of March, 2019.

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Counsel for Mr. Duckett