

IN THE CIRCUIT COURT OF MAYCOMB COUNTY, ALABAMA

STATE OF ALABAMA,

*

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v.

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Case No. CC-00-0000

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JOE CLIENT.

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**MOTION TO BAR THE DEATH PENALTY BECAUSE
ALABAMA’S DEATH PENALTY STATUTE FAILS TO NARROW THE CLASS
OF DEATH-ELIGIBLE OFFENDERS**

Joe Client respectfully moves this Court to bar imposition of the death penalty in this case because by enacting nineteen capital offenses and broadly construing the meaning of these offenses, Alabama’s death penalty statute fails to constitutionally narrow the class of people eligible to be sentenced to death. See Ala. Code § 13A-5-40. In support of this motion, Mr. Client states the following:

1. The death penalty may not be imposed “under sentencing procedures that creat[e] a substantial risk that it would be inflicted in an arbitrary and capricious manner.” Gregg v. Georgia, 428 U.S. 153, 188 (1976). In considering the constitutional requirements necessary to ensure that capital punishment is “imposed fairly, and with reasonable consistency,” Eddings v. Oklahoma, 455 U.S. 104, 112 (1982), the Supreme Court has held that states must meaningfully “narrow the class of murderers subject to capital punishment.” Gregg, 428 U.S. at 196.

2. Alabama has enacted nineteen capital offenses, Ala. Code § 13A-5-40, and its definitions have been broadly interpreted. For example, Alabama courts have concluded that by bringing a victim from inside her home to her front porch constitutes the capital offense of murder during a kidnapping. See Stewart v. State, 601 So. 2d 491, 497 (Ala. Crim. App. 1992), rev’d on other grounds, Ex parte Stewart, 659 So. 2d 122 (Ala. 1993).

3. Similarly, Alabama courts have construed the term “burglary” such that *any* murder committed inside a building can be considered a capital offense. See Davis v. State, 737 So. 2d 480, 483 (Ala. 1999) (“evidence of a struggle . . . can be used to show an unlawful remaining, a separate prong of the offense of burglary upon which a conviction can be based”); see also White v. State, 179 So. 3d 170, 220 (Ala. Crim. App. 2013) (“Based on the evidence establishing that White struggled with, raped, and strangled Parker, the State presented sufficient evidence from which the jury could have found that any license White had to be in Parker’s apartment had been revoked and he unlawfully remained there.” (citing

Davis, 737 So. 2d at 484)).

4. Alabama’s robbery-murder aggravating circumstance similarly does not narrow the class of eligible offenders because the circumstance is so pervasive. As the Alabama Court of Criminal Appeals has observed, approximately “two-thirds of the death sentences imposed in Alabama involve cases of robbery/murder.” Flowers v. State, 922 So. 2d 938, 961 (Ala. Crim. App. 2005). The frequency with which this overly broad aggravating circumstance is applied reflects its inability to meaningfully narrow as the Constitution requires.

5. Likewise, Alabama’s “vehicle shooting” provisions arbitrarily expose certain defendants to the death penalty not because the alleged offenses are inherently more dangerous, but due to the random location where the offenses occurred. See Ala. Code § 13A-5-40(a)(17), (18).

6. The statute is unconstitutionally overbroad on its face and as applied in this case, because nothing in the indictment meaningfully narrows the application of Alabama’s death penalty. Gregg, 428 U.S. at 196; see also Zant v. Stephens, 462 U.S. 862, 877 (1983) (capital statutes must “genuinely narrow” class of people eligible for the death penalty). Failing to bar the death penalty in this case would violate Mr. Client’s rights to due process, a fair trial, and a reliable sentencing as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Alabama law.

For these reasons, Mr. Client respectfully petitions this Court to bar the imposition of the death penalty in Mr. Client’s case.

Respectfully submitted,

/s/ Linda Lawyer

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[CERTIFICATE OF SERVICE]

[MOTION UPDATED ON 10/05/17]