

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 FOR CHARGE CONFERENCE AND OPPORTUNITY TO REVIEW  
AND OBJECT TO FINAL JURY CHARGE BEFORE READING TO JURY**

Joe Client respectfully moves this Court for the opportunity to argue at a charge conference in support of his requested jury instructions, and to review and object to the Court's final jury charge before it is read to the jury. In support of this motion, Mr. Client submits the following:

1. Rule 21.1 of the Alabama Rules of Criminal Procedure provides in relevant part:

At the close of the evidence ... either party may file ... written requests that the court instruct the jury on the law as set forth in those requests. The court shall inform counsel of its proposed action upon the requests before counsel's argument to the jury, but the court shall instruct the jury after the arguments are completed.

Ala. R. Crim. P. 21.1.

2. Rule 21.3 provides: "Opportunity shall be given to make the objection out of the hearing of the jury." Ala. R. Crim. P. 21.3; see also Ex parte Washington, 448 So. 2d 404, 406 (Ala. 1984) ("[T]o preserve alleged error in the trial court's oral instructions to the jury, the objection must be made prior to the jury's retirement for deliberation, but it need not be made in their presence." (citations omitted)).

3. Mr. Client will submit his requested jury instructions at the close of evidence.

4. "The fundamental respect for humanity" underlying the Eighth Amendment's prohibition against cruel and unusual punishment gives rise to a special need for reliability in determining whether the death penalty is appropriate. Johnson v. Mississippi, 486 U.S. 578, 584 (1988); see also Ex parte Monk, 557 So. 2d 832, 836-37 (Ala. 1989) (death penalty

is “special circumstance” that justifies expansion of constitutional rights). Denial of this motion will deprive Mr. Client of his rights to due process, equal protection, a fair trial and reliable sentencing as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Alabama law.

For these reasons, in order to preserve any objections to the Court’s jury charge or to the Court’s refusal, if any, to give the defendant’s requested instructions, Mr. Client respectfully requests that this Court:

- a. at the close of evidence, hold a charge conference out of hearing of the jury;
- b. permit counsel at the charge conference to argue in support of Mr. Client’s requested jury instructions, and against any instructions proposed by the State or the Court which Mr. Client opposes;
- c. grant Mr. Client the opportunity to review the Court’s final jury charge, and to object to the Court’s final jury charge out of the hearing of the jury, and before the Court reads the charge to the jury.

Respectfully submitted,

/s/ Linda Lawyer

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[CERTIFICATE OF SERVICE]

**[MOTION UPDATED ON 10/3/17]**