

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 FULL RECORDATION OF ALL PROCEEDINGS**

Joe Client respectfully moves this Court to direct the court reporter to record and transcribe all proceedings in all phases of this case. In support of this motion, Mr. Client submits the following:

1. Alabama law requires that, when requested by a party, the court reporter “shall take full stenographic notes of the oral testimony and proceedings, except argument of counsel, and note the order in which all documentary evidence is introduced, all objections of counsel, the rulings of the court thereon and exceptions taken or reserved thereto.” Ala. Code § 12-17-275.

2. In a capital case, the court reporter “shall take full stenographic notes of voir dire of the jury and of the arguments of counsel, whether or not such is ordered by the judge or requested by the prosecution or defense. This duty may not be abrogated by the judge or waived by the defendant.” Ala. R. Crim. P. 19.4(a).

3. The failure to afford a defendant a “record sufficiently complete to permit review of [alleged errors at trial] . . . constitutes reversible error.” Hammond v. State, 665 So. 2d 970, 973 (Ala. Crim. App. 1995) (reversing capital murder conviction and death sentence for failure to transcribe significant portion of record); see also Ingram v. State, 779 So. 2d 1225, 1280 (Ala. Crim. App. 1999) (“Because of the statutory requirement of an automatic appeal in death penalty cases, the requirement that we search the record for plain error in such cases, the right to appeal, and because of an appellant’s indigency, the state must afford such an appellant a record of sufficient completeness to permit review for plain error and to permit proper consideration of claims presented on appeal.”); Harris v. State, 552 So. 2d 857, 860 (Ala. Crim. App. 1987) (stating that courts have “duty to examine *the entire record* to determine whether any error exists” (emphasis added)).

4. The Supreme Court and other federal courts also have reversed convictions and capital sentences where an insufficient record prevented them from adequately evaluating a litigant’s claims. See Draper v. Washington, 372 U.S. 487, 497, 499-500 (1963) (reversing

for failure to provide trial transcript; only “record of sufficient completeness” permits meaningful appellate review); United States v. Johnson, 231 F.3d 43, 49-51 (D.C. Cir. 2000) (ordering resentencing where transcript of original sentencing was lost); United States v. Wilson, 16 F.3d 1027, 1031 (9th Cir. 1994) (holding that court’s failure to provide accurate and reliable transcript deprived defendant of due process); United States v. Selva, 559 F.2d 1303, 1305 (5th Cir. 1977) (reversing where incomplete transcript foreclosed appellate counsel from examining the record for possible error).

5. The Alabama Supreme Court has held that the “death penalty is the special circumstance” that justifies the expansion of constitutional rights. Ex parte Monk, 557 So. 2d 832, 836-37 (Ala. 1989). The United States Supreme Court has held that meaningful appellate review is critical to the constitutionality of the death penalty. Woodson v. North Carolina, 428 U.S. 280, 303 (1976) (death penalty process must be “rationally reviewable”).

6. Full recordation and transcription of all proceedings in this case is necessary to ensure Mr. Client’s rights to due process, a fair trial, and reliable sentencing proceedings as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the Alabama Constitution, and Alabama law.

For these reasons, Mr. Client respectfully moves this Court to order that all of the proceedings in this case be recorded and transcribed.

Respectfully submitted,

/s/ Linda Lawyer

Linda Lawyer

123 Main Street

Maycomb, AL 54321

(334) 987-6543

lawyer@email.com

*Counsel for Joe Client*

[CERTIFICATE OF SERVICE]

[MOTION UPDATED ON 10/03/17]