

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 SPECIAL VERDICT FORMS AT SENTENCING

Joe Client respectfully moves this Court to require the jury to complete special verdict forms reflecting its findings regarding the existence of each charged aggravating circumstance and whether the aggravating circumstances outweigh the mitigating circumstances. In support of this motion, Mr. Client submits the following:

1. Mr. Client has been charged with capital murder and the State is seeking the death penalty.

2. At the penalty phase of a capital case, Alabama law requires the jury to determine the existence of each aggravating circumstance proffered by the State, as well as whether the aggravating circumstances that it finds to exist outweigh any mitigating circumstances. Ala. Code §§ 13A-5-45, 13A-5-46.

3. “The verdict of the jury [at the penalty phase] must be in writing and must specify the vote.” Ala. Code § 13A-5-46.

4. The Alabama Supreme Court has endorsed the use of special verdict forms at the penalty phase of a capital case. See Ex parte McGriff, 908 So. 2d 1024, 1039 (Ala. 2004); Ex parte State (State v. Billups), No. CR-15-0619, 2016 WL 3364689, at *10 (Ala. Crim. App. June 17, 2016) (finding Alabama Supreme Court has “endorsed the use of special-verdict forms during the penalty phase of a capital trial”); see also Henderson v. State, No. CR-12-0043, 2017 WL 543134, at *41 (Ala. Crim. App. Feb. 10, 2017) (noting with approval use of special interrogatories on each aggravating circumstance).

5. In McGriff, the Alabama Supreme Court issued “a prospective direction . . . that the count of the jurors’ votes on the issue of the existence of an aggravating circumstance be expressly recorded on the verdict form.” 908 So. 2d at 1039.

6. Additionally, if a death sentence is imposed in this case, the Alabama Court of Criminal Appeals will be required by law to review the propriety of that sentence, including “[w]hether an independent weighing of the aggravating and mitigating circumstances at the appellate level indicates that death was the proper sentence.” Ala. Code § 13A-5-53. Because the court must reweigh the aggravating and mitigating circumstances found below, it cannot conduct this review unless the record clearly reflects those findings. See Woods v. State, 13 So. 3d 1, 39-40 (Ala. Crim. App. 2007). Because the jury’s verdict is binding, see Ala. Code § 13A-5-47(a), it is necessary for appellate review of the sentence that the jury’s findings be clear upon the record.

7. A special verdict form will also help to ensure that Mr. Client’s constitutional right to a jury trial is not violated. The Sixth and Eighth Amendments require that every fact necessary to impose a death sentence be found by a unanimous jury beyond a reasonable doubt. Hurst v. Florida, 136 S. Ct. 616, 619 (2016) (“The Sixth Amendment requires a jury . . . to find each fact necessary to impose a sentence of death.”); Ring v. Arizona, 536 U.S. 584, 589 (2002) (capital defendants have Sixth Amendment right to “a jury determination of any fact on which the legislature conditions an increase in their maximum punishment”). Under Alabama’s statute, this includes both the existence of each aggravating circumstance and whether the circumstance(s) outweigh the mitigating circumstances. Ala. Code § 13A-5-46(e). A special verdict form will show whether the jury has made the constitutionally required findings necessary before a death sentence can be imposed.

8. A special verdict form is necessary to ensure Mr. Client’s rights to due process, equal protection, a fair trial, and a reliable sentence as guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Alabama law.

For these reasons, Joe Client respectfully requests that this Court:

- a. require the jury to complete a special verdict form for each aggravating circumstance alleged by the State indicating the number of jurors, if any, who found that aggravating circumstance to have been proven beyond a reasonable doubt; and
- b. require the jury to complete a special verdict form indicating the number of jurors, if any, who found that the aggravating circumstance(s) outweigh the mitigating circumstances beyond a reasonable doubt.

Respectfully submitted,

/s/ Linda Lawyer

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[CERTIFICATE OF SERVICE]

[MOTION UPDATED ON 10/13/17]