

SUPREME COURT
STATE OF FLORIDA

LARRY DARNELL PERRY

CASE NUMBER SC16-547

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

RENEWED MOTION FOR JOINDER WITH
CASE NUMBER SC16-696
FOR PURPOSES OF RESPONDING TO STATE'S
MOTION FOR CLARIFICATION OR IN THE ALTERNATIVE
MOTION TO FILE RESPONSE TO STATE'S MOTION
FOR CLARIFICATION

COMES NOW, WILLIAM WOODWARD, by and through his undersigned counsel and again moves this Court for joinder of this action with SC16-696 (Woodward v. State) so as to allow Mr. Woodward to address the issues in the State's Motion for Clarification, filed October 21, 2016, or to otherwise be permitted to address the issues raised in that motion in the lesser status of amicus.

1. This motion is brought pursuant to Fla. R. App. P. 9.360(a).
2. This Court issued a decision in the above styled action on October 14, 2016. The Court incorrectly asserts at footnote 3 that Mr. Woodward did not file a motion for joinder in this case. As indicated in a motion already filed by Mr. Woodward on October 14 in this case, that assertion is incorrect. Mr. Woodward

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in fact did file a motion for joinder with SC16-696, and this Court denied that Motion.

3. As this Court noted in the above styled action the Fifth District on its own consolidated Mr. Perry's case with Mr. Woodward's. This Court's decision discusses both cases, though it obviously focuses on Mr. Perry's case. Mr. Woodward cannot assume that he will get his own opportunity to litigate SC16-696 at all, and certainly not with the thoroughness given to Mr. Perry's case. The fate of his litigation seems to be inextricably intertwined with the fate of Mr. Perry's case.

4. Mr. Woodward unsuccessfully argued that Mr. Perry's case was not even properly before the Court prior to oral argument.

5. The State is now arguing in a "motion for clarification" that the Court should legislate its own version of the death penalty or promulgate rules to that end and simply do so in a court opinion. Mr. Woodward is concerned Mr. Perry's attorney will not properly argue the relevancy of Fla. R. Jud. Admin 2.140 to what the State is proposing and will not address the issue of retroactive application of any changes proposed. Perry's lawyer ceded at least half his time at oral argument in this case to another attorney (McLain) who argued (against the interests of Mr. Perry) that a new statute could be applied retroactively. Mr. Woodward addressed the retroactivity issue in his amicus brief as it related to the legislation passed. The

State now proposes another method of creating an avenue to the death penalty – court rule without the process provided for in Fla. R. Jud. P. 2.140. Mr.

Woodward should be entitled to defend his interests on these issues since Mr. Perry’s counsel frankly seems disinclined to do so.

6. None of this is to say that Mr. Woodward is waiving his right to fully litigate his own case before this Court. There is much about how the Fifth District maneuvered Mr. Woodward’s case to the point it is at now that should give this Court pause. He simply does not enjoy the luxury of assuming he will ever get that opportunity.

7. Of additional concern to Mr. Woodward is the State’s professed desire to avoid the potential for a “miscarriage of justice.” By “miscarriage of justice” they mean that a person would die of natural causes in prison at a time selected by the Almighty as opposed to dying in prison at a time selected by the Governor and the Department of Corrections. Mr. Woodward asks for the opportunity to suggest to this Court that there perhaps may be greater miscarriages of justice at issue in these cases than the *de minimis* one the State is fixated on.¹

¹ At oral argument the State of Florida argued to this Court “finality trumps fairness.” *Durousseau v. State* SC15-1276; Oral Argument, June 9, 2016; Carine Mitz, Esq. arguing on behalf of the State. The State’s distaste for “miscarriages of justice” is apparently fluid, or better yet occasional.

WHEREFORE, William Woodward asks for joinder or whatever other relief the Court can afford to allow him to argue his position in a case that came to his Court bearing his name.

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on the 21st day of October, 2016, I electronically filed the foregoing with the Clerk of Court by using the e-portal system which will send notice of electronic filing to the following: Carol Dittmar, Assistant Attorney General, Concourse Center 4, 3507 East Frontage road, Suite 200, Tampa, Florida 33607-7013, carol.dittmar@myfloridalegal.com, capapp@myfloridalegal.com; Vivian Singleton, Assistant Attorney General, Office of the Attorney General, 444 Seabreeze Blvd, 5th Floor, Daytona Beach, Florida 32118, vivian.singleton@myfloridalegal.com, James D. McMaster, Assistant State Attorney, Office of State Attorney Eighteenth Judicial Circuit, BrevFelony@sa18.org, jmcmaster@sa18.org; the Honorable James Earp, Circuit Judge, Eighteenth Judicial Circuit, Brevard County Courthouse, 2825 Judge Fran Jamieson Way, Viera, Florida 32940, jim.earp@flcourts18.org, Tina Derwitsch, Judicial Assistant to the Honorable James Earp, Brevard County Courthouse, 2825 Judge Fran Jamieson Way, Viera, Florida 32940, tina.derwitsch@flcourts18.org, Frank Bankowitz, P.O. Box 2568, 215 E. Livingston Street, Orlando, Florida

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