

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT, IN AND
FOR FLAGLER COUNTY, FLORIDA

CASE NO.: 182007CF000033A000XX
JUDGE HUDSON

STATE OF FLORIDA,
Plaintiff,
vs.

CORNELIUS OZELL BAKER,
Defendant.

**DEFENSE'S RESPONSE TO STATE'S MOTION TO
REINSTATE DEATH PENALTY**

COMES NOW, CORNELIUS OZELL BAKER, by and through the undersigned attorney, and moves this Honorable Court to deny the state's motion to reinstate his death sentence. In support of this motion, Mr. Baker would submit the following:

PROCEDURAL HISTORY

1. Cornelius Baker was indicted for the First-Degree Murder, Kidnapping, and the Home Invasion Robbery on or about January 19, 2007. A jury found him guilty of all three counts on or about August 25, 2008. After a penalty phase hearing, the jury recommended that the death penalty should be imposed. The recommendation was made on August 28, 2008 and on March 4, 2009, Mr. Baker was sentenced to Death on the First-Degree Murder count.

2. Mr. Baker's case was automatically appealed to the Florida Supreme Court as with all death penalty cases in Florida. Mr. Baker's direct appeal filed on or about March 19, 2009 was denied. A motion for certiorari filed in The United States Supreme Court thereafter was denied certiorari review on February 27, 2012. **Baker v. Florida**, 132 S. Ct. 1639 (2012).

3. Mr. Baker then filed a motion for Postconviction relief pursuant to Florida Rule of Criminal Procedure 3.851 on or about February 22, 2013. An evidentiary hearing

on the postconviction relief motion was held on September 16, 2013. On October 14, 2013, all relief requested in the postconviction motion was denied.

4. Mr. Baker then filed a notice of appeal of the October 14, 2013, denial of his motion for postconviction. During the pendency of Mr. Baker's postconviction motion appeal, the United States Supreme Court ruled on **Hurst v. Florida**, 136 S. Ct. 616 (2016) finding Florida's sentencing scheme unconstitutional under **Ring v. Arizona**, 536 U.S. 584 (2002). The Florida Supreme Court, in **Hurst v. State**, 202 So.3d 40 (Fla. 2016), interpreted **Hurst v. Florida** to require that a jury unanimously find (1) each aggravating factor, (2) that the aggravating factors are sufficient to warrant death, and that (3) the aggravating factors outweigh the mitigation. See **Hurst v. State**, 202 So.3d 40, 57, 66 (Fla. 2016).

5. On March 23, 2017, the Florida Supreme Court denied Baker's substantive allegations against his defense counsel. However, the Florida Supreme Court vacated Baker's death sentence as unconstitutional under **Hurst v. Florida** and remanded the case to the trial court for a new penalty phase. Said order and mandate were filed on March 28, 2017, commanding the trial court to conduct a resentencing hearing for Mr. Baker.

ARGUMENT

In death penalty cases, a verdict of death issued by a trial judge is directly appealed to the Florida Supreme Court. Any order issued by the Florida Supreme Court is not a suggestion to the trial court but a demand, a mandate if you will, for the trial court to perform functions consistent with said order. A trial court does not have the power to legally ignore or change an order of the Florida Supreme Court.

The State asks this Honorable Court to reinstate the Defendant's death sentences pursuant to **State v. Poole**, 292 So.3d 694 (Fla. 2020); 2020 WL 370302, a case that was decided almost 3 years after the mandate was issued in Mr. Baker's Case. See **Florida Rules of Appellate Procedure 9.340 (a)**. In requesting that Mr. Baker's sentence be reimposed, the state asks that this Honorable Court ignore a final order and mandate issued by the Florida Supreme Court. The state asks that this Honorable Court assume the power to determine that a final order by the highest court in the State of Florida

should be ignored and overruled at the trial level. There is simply no rule or statutory authority for a trial court to consider the merits of a final order of the Florida Supreme Court granting postconviction relief some two years plus after its rendition or to ignore said final order.

As an aside, trial courts have no authority to alter, modify or vacate even its own order or judgment except in the manner and time frame provided by the applicable rules of procedure. See **Shelby Mutual Insurance Co. v. Pearson**, 236 So. 2d 1, 3 (Fla. 1970).

In other words, though not the case here, this Honorable Court would be without the legal power to revoke its own order granting resentencing had that order been the trigger for Mr. Baker's resentencing. That being the case, it is unconceivable that this Honorable Court would have the authority to vacate an order of the highest court in the state, The Florida Supreme Court.

WHEREFORE, Mr. Baker moves this Honorable Court to deny the state's motion to reinstate the death penalty and instead set a date and time for his resentencing as ordered and mandated by the Florida Supreme Court.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been furnished by eservice to the Office of the State Attorney, eserviceflagler@sao7.org this 16th day of July, 2020.

/s/ **Junior Barrett**

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