IN THE SUPREME COURT OF FLORIDA
Tallahassee, Florida

LEONARD P. GONZALEZ, JR.	*	CASE NO.: SC2023-0740
	*	Original Proceeding
Petitioner,	*	
	*	L.T.: 2009CF-3249-C
v.	*	
	*	
STATE OF FLORIDA,	*	
	*	
Respondent.	*	

Addendum Petition for Writ of Prohibition;
Addendum Petition for Writ of Certiorari

On review from four additional final orders dated xx/yy/2023, denying petitioner's motion to find the new legislative change in the criminal law [SB-450] as not applicable to this ***Hurst*** resentencing mandated by the Florida Supreme Court that was based in the unanimous verdict standard [filed on 4/21/2023] and petitioner's four motions based upon res judicata, ex post facto, F.S. 775.022, and constitutional objections (filed on 06/20/2023) following the four written Final Orders [filed on xx/yy/2023] of the Circuit Court for the First Judicial Circuit, in and for Escambia County, Florida, Hon. Coleman Lee Robinson, Circuit Court Judge, presiding.

/s/ Ira W. Still, III **/s/ Joseph Chambrot**

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Key

This petition is entitled Addendum Petition. It has been designed to fit together with the initial petition such that the State's initial response has previously been filed and won't be duplicated here.

This Addendum Petition cites mainly to the Addendum Appendix [2A] but with a handful of cites to the initial Appendix [A]. The Addendum Appendix designations follow this format: [2A-15, pp. 10-14].

- [2A] indicates Addendum Appendix
- 15 indicates the Item number listed in Index
- pp. 10-14, indicates the pages as numbered in the Addendum Appendix.

Basis for Invoking Jurisdiction

The Supreme Court has jurisdiction of the writs sought under Article V, section 3(b)(7), Fla. Const., in that the issue concerns the efficacy of the court ordered ***Hurst*** resentencing as well as two motions challenging the constitutionality of section 921.141, Fla. Stat.

This Honorable Court is vested with original jurisdiction to review decisions of the 1st Circuit Court in and for Escambia County, Florida, that was trying a death penalty ***Hurst*** resentencing when the legislature amended section 921.141, Fla. Stat., to an 8-4 jury verdict standard penalty phase proceedings as for this particular case. The trial court, in addition to the four orders indicated in the initial petition, also denied (or is expected to deny) four additional orders that were the very purpose of petitioner seeking this Court's permission to amend and file (on or before 7/31/2023) the Addendum Petition and Addendum Appendix. These are:

- Written Final Order dated (not issued prior to filing

Deadline and petitioner moves the Court to supplement the Addendum Appendix with copies of the trial court orders when

issued) [2A-14, pp. 166-167] petitioner's Motion to Conduct a Unanimous Penalty Jury Verdict Pursuant to ***Hurst v. State***, in that the Doctrine of **Res Judicata** Requires It [2A-18, pp 174-186]; and

- Written Final Order dated (not issued prior to filing

Deadline and petitioner moves the Court to supplement the Addendum Appendix with copies of the trial court orders when issued) [2A-15, pp. ---] on petitioner's

Motion to Declare Florida's new Capital Sentencing Scheme, dispensing with the Jury Unanimity Requirement and Replacing it with an 8-4 for death vote, violative of the **Ex Post Facto** Clause [2A-19, pp. 187-200]; and

- Written Final Order dated (not issued prior to filing

Deadline and petitioner moves the Court to supplement the Addendum Appendix with copies of the trial court orders when issued) [2A-16, pp. ---] on petitioner's Motion to Preclude Application of the Most Recent Statutory Amendments to F.S. 921.141 from this case, as such application would be in **violation of F.S. 775.022** [2A-20, pp. 201-205]; and

- Written Final Order dated (not issued prior to filing

Deadline and petitioner moves the Court to supplement the Addendum Appendix with copies of the trial court orders when issued) [2A-17, pp. 172-173] on petitioner's motion in the trial court entitled: **Constitutional Objections** to Defendant's Penalty Phase Jury Trial resentencing being conducted under the new 8-4 for Death Law [2A-21, pp. 206-248]; and

- Issue a writ of prohibition, a writ of certiorari or a writ

pursuant to the Court's all writs jurisdiction, to review final orders [2A-14, pp. 166-167]; [2A-15, pp. 168-169]; [2A-16, pp. 170-171]; and [2A-17. pp. 172-173] from a Circuit Court on a death penalty case in which the standard for penalty phase jury verdicts has changed by legislative fiat, during litigation of petitioner's case.

Nature of Relief Sought

NOTE: Since the Nature of Relief Sought of the case has not changed from the initial petition, for purposes of this addendum petition the petitioner incorporates by reference the Nature of Relief Sought from the initial petition. The trial court's rulings on the four additional motions (filed with the permission of the Court) once determined and final orders rendered also departs from the essential requirements of the law in that the additional arguments that favor petitioner having unanimity in the ***Hurst*** resentencing that is pending.

Statement of Facts

A. Facts of the Case:

NOTE: Since the facts of the case have not changed from the initial petition, for purposes of this Addendum Petition the petitioner incorporates by reference the Statement of Facts from the initial petition.

B. Procedure of the Case after Direct Appeal:

NOTE: Since the procedure of the case has not changed from the initial petition, for purposes of this Addendum Petition the petitioner incorporates by reference the Procedure of the Case after Direct Appeal from the initial petition.

Addendum Argument and Citations

E. Res Judicata:

Petitioner filed a motion in the trial court entitled: Motion to Conduct a Unanimous Penalty Jury Verdict Pursuant to *Hurst v. State*, in that the Doctrine of Res Judicata requires it [2A-18, pp. 174-186]. This motion was filed on 6/20/2023, which was after the filing of the initial petition (5/23/2023), and following the State's response (6/7/2023), but before this Court granted petitioner the right to amend his petition (7/12/2023). The issue raised is that the new statute violates the doctrine of res judicata and therefore violates the Constitution. The new law does not apply to petitioner's ***Hurst*** resentencing based upon the doctrine of res judicata. The trial court denied petitioner's motion (on xx/yy/2023) [2A-14, pp. 166-167].

Petitioner's motion in the trial court [2A-18, pp. 174-186] argument section under item #1, *res judicata* forbids this Court from applying the new statute's non-unanimity provisions to this case. The trial court is bound by the doctrine of *res judicata* to the final judgment granting petitioner's relief under ***Hurst v. State.***

Res judicata doesn't just bind this Court to afford Mr. Gonzalez a new capital sentencing, it must be afforded under the law of the case. However, the question of unanimity as the jury verdict standard to this particular case was set when it was determined that petitioner was entitled to a ***Hurst*** resentencing. This may not be relitigated here because of res judicata. The new penalty proceeding must go forward, but with unanimity required by res judicata.

See ***Petrysian v. Metro. Gen. Ins. Co.***, 672 So. 2d 562, 563 (Fla. 5th DCA 1996) (citing ***Theisen v. Old Repub. Ins. Co.***, 468 So.2d 434 (Fla. 5th DCA 1985), for the proposition that a "change in the applicable rule of law resulting from a later appellate decision in an unrelated case is not a ground to vacate a final order").

There can be no question that the postconviction court's decision granting *Hurst* relief [A-7, pp 25-45] was a final order and "final judgment," barring further litigation, or re-litigation, on the issues decided based upon res judicata. *See* ***State v. Jackson***, 306 So. 3d 936, 942 (Fla. 2020) (rejecting State's argument that the ongoing resentencing commenced after *Hurst* relief was granted, renders the judgment affording relief non-final, because, inter alia,

in granting post-conviction relief, all judicial labor is complete and a new proceeding commences).

In that the postconviction judgment granting ***Hurst v. State*** relief is final, res judicata forbids this Court from allowing a new death sentence without juror unanimity. That clearly was the law when the post-conviction court denied the State's motion to reinstate the death sentence and required the ***Hurst*** resentencing [A-7, pp. 25-45]. It was conceded on oral argument and the State never appealed. It was clearly a final order to which the doctrine of res judicata applies.

Additionally, considering a situation where the State's argument might prevail, the Equal Protection Clause of the Constitution of the United States forbids application of the new law when the majority of *Hurst* resentenced defendants, similarly situated, were sentenced under the prior rule of unanimity. This means the law of *Hurst* resentencings has carved out a classification of defendants that are not entitled to unanimity while the other group were previously afforded *Hurst* resentencings with unanimity. This is a violation of Equal Protection under the Fourteenth Amendment.

A death sentence recommended by a non-unanimous jury would also violate the Eighth Amendment's bar on arbitrary death sentences. *See* ***Penry v. Lynaugh***, 492 U.S. 302, 319 (1989). Thus, "[c]apital punishment must be limited to those offenders who commit 'a narrow category of the most serious crimes' and whose extreme culpability makes them 'the most deserving of execution.' " *See* ***Roper v. Simmons***, 543 U.S. 551, 568 (2005) quoting ***Atkins v. Virginia***, 536 U.S. 304, 319 (2002), "[I]f a State wishes to authorize capital punishment it has a constitutional responsibility to tailor and apply its law in a manner that avoids the arbitrary and capricious infliction of the death penalty." *See* ***Godfrey v. Georgia***, 446 U.S. 420, 428 (1980).

To avoid a violation of the Equal Protection Clause and the Eighth Amendment, and to comply with the doctrine of res judicata, this Court must require that petitioner be sentenced in accord with ***Hurst v. State*** and require jury verdict unanimity under that precedent, including with respect to the ultimate sentencing decision.

F. Ex Post Facto:

Petitioner filed a motion in the trial court [2A-19, pp. 187-200] entitled: Motion to Declare Florida's new Capital Sentencing Scheme, Dispensing with the Jury Unanimity Requirement and Replacing it with an 8-4 vote, violative of the Ex Post facto Clause. This motion was filed on 6/20/2023, which was after the filing of the initial petition (5/23/2023), and following the State's response (6/7/2023), but before this Court granted petitioner the right to amend his petition (7/12/2023).

The issue raised here is that the new statute violates the ex post facto clause of the Constitution of the United States and the Constitution of the State of Florida. The new law (SB-450) does not apply to petitioner's ***Hurst* resentencing** based upon the *ex post facto doctrine*.

Many federal circuits recognize *Peugh*'s "significant risk" framework. *See* ***Bates v. United States***, 649 F. App'x 971, 975 (11th Cir. 2016) (citing ***United States v. Wetherald***, 636 F.3d 1315, 1322 (11th Cir. 2011) ("[W]e will … find an Ex Post Facto Clause violation when a district judge's selection of a Guidelines range in effect at the time of sentencing rather than that at the time of the offense results

in a substantial risk of harsher punishment."); ***United States v. Ortiz***, 621 F.3d 82, 87 (2d Cir. 2010) ("We think the "substantial risk" standard adopted by the D.C. Circuit appropriately implements the Ex Post Facto Clause in the context of sentencing under the advisory Guidelines regime, and is faithful to Supreme Court jurisprudence explaining that the Clause protects against a post-offense change that "create[s] a significant risk of increas[ing] [the] punishment," ***Garner v. Jones***, 529 U.S. 244, 255, 120 S.Ct. 1362, 146 L.Ed.2d 236 (2000)."); ***Cross v. United States***, 892 F.3d 288, 304-05 (7th Cir. 2018) ["The ex post facto clause bars a retroactive law if it 'creates a significant risk of a higher sentence.' 137 S.Ct. at 895 (quoting *Peugh*, 569 U.S. at 550, 133 S.Ct. (2072)."]. In the case at bar, lowering the standard for determining death from unanimous to 8-4 for death creates a significant risk that death will be found and apply to far more cases than the more civilized standard of unanity.

On January 25, 2023, after the Parkland verdict, Governor DeSantis implored the Legislature to change the law to allow juries to administer the death penalty via what he called a supermajority vote, rather than requiring unanimity. The Legislature swiftly obliged. **"This is much-needed reform to ensure that evil**

scumbags like Nikolas Cruz do not escape with just a life sentence," state Sen. Blaise Ingoglia said as he introduced the bill on March 6, 2023 [2A-22(a), pp. 249-316]. Gov. DeSantis repeated this sentiment when he signed the bill on April 20, 2023, saying "Once a defendant in a capital case is found guilty by a unanimous jury, one juror should not be able to veto a capital sentence" … "I'm proud to sign legislation that will prevent families from having to endure what the Parkland families have and ensure proper justice will be served in the state of Florida."

The legislative history and debate on the new bill [2A-22(a)-(h), pp. 249-538] was cited in petitioner's motion [2A-18, pp. 174-186]. It is clearly hostile debate. The legislators couldn't change Cruz's sentence to LWOP, but sought vengeance against all new capital defendants going forward based upon their anger towards Nicholas Cruz jury verdict resulting in LWOP. In this, the legislature clearly showed punitive intent toward all future capital defendants based upon the condemned Nicholas Cruz [2A-19, pp. 194-197].

The catalyst for this new law (Cruz's life sentence in the Parkland school shootings) and the broader justification (to ensure that defendants in high publicity cases or cases which the legislators

perceive as especially heinous do not "get off" with a sentence of life imprisonment without parole) are impossible to ignore. The Legislative intent and effect of the elimination of the unanimity requirement is undoubtedly punitive and punitive intent is an important *ex post facto* consideration. *See* ***State v. Thiel***, 524 N.W.2d 641, 645 (1994) (finding no Ex Post Facto violation where "[t]here is no evidence that the principal purpose of [the statute] is punishment, deterrence or retribution."); ***Riley v. New Jersey State Parole Bd.***, 98 A.3d 544, 553 (2014) ("Assuming that a statute is intended to apply retroactively, determining whether the statute imposes punishment requires a two-part evaluation under the Ex Post Facto Clause. … First, a court must assess whether the Legislature intended 'to impose punishment.' … If the court finds that the Legislature had a punitive intent, 'that ends the inquiry.' "); ***L.M.L. v. State of Alabama***, No. CR-20-0157, 2022 WL 1721575, at *13 (Ala. Crim. App. May 27, 2022) ("If the court finds that the Legislature had a punitive intent, 'that ends the inquiry.' "). Here, the Florida Legislature's punitive intent is clear as a bell as can be seen from the legislative debates on the new law and from the legislative hearing transcripts [2A-22(a)-(h), pp. 249-538].

It is of no consequence that Mr. Gonzalez's penalty phase has yet to begin. "[T]he penalty phase is not a separate guilt determination but is a continuation of the same proceeding ... ." ***Rondon v. State***, 534 N.E.2d 719, 724 (Ind. 1989) (emphasis supplied). *See also* ***State v. Rogers***, No. 81-6906, 1984 WL 7811, at *20 (Ohio Ct. App. Mar. 10, 1984) (reasoning that "the phases are, in fact, two segments of the same proceeding" in the context of a double jeopardy challenge regarding Ohio's statutory scheme for imposing the death penalty providing for bifurcated proceedings); ***People v. Thomas***, 304 Cal.Rptr.3d 1, 59 (2023) (holding for purposes of a *Faretta* motion that "the penalty phase has no separate formal existence but is merely a stage in a unitary capital trial**.**") (emphasis supplied), citing ***People v. Hamilton***, 45 Cal. 3d 351, 369, 753 P.2d 1109 (Cal. 1988); ***People v. Superior Ct. (Mitchell)***, 5 Cal.4th 1229, 1233 (Cal. 1993) (observing "the penalty phase of a capital trial is merely a part of a single, unitary criminal proceeding" in the context of the defendant's obligations to provide reciprocal discovery); ***State v. McDonnell***, 176 P.3d 1236, 1241 (2007) (holding the same in the context of judicial disqualification); ***State v. McAlpin***, 204 N.E.3d

459, 477 (Ohio 2022) (holding the same in the context of the right to counsel and corresponding right to self-representation).

the Court even recognized the significance of the guilt phase commencing in ***Dobbert v. Fla.***, 432 U.S. 282 (1977).:

> But petitioner is simply not similarly situated to those whose sentences were commuted. He was **neither tried nor sentenced** prior to Furman, as were they, and the only effect of the former statute was to provide sufficient warning of the gravity Florida attached to first-degree murder so as to make the application of this new statute to him consistent with the Ex Post Facto Clause of the United States Constitution. Florida obviously had to draw the line at some point between those whose cases had progressed sufficiently far in the legal process as to be governed solely by the old statute, with the concomitant unconstitutionality of its death penalty provision, and those whose cases involved acts which could properly subject them to punishment under the new statute. There is nothing irrational about Florida's decision to relegate petitioner to the latter class, since the new statute was in effect at the time of **his trial and sentence.**_***Dobbert***, 432 U.S. at 301.

See also ***Cobb v. State***, 505 N.E.2d 51, 53-54 (Ind. 1987) (rejecting an ineffective assistance of counsel claim where "Trial counsel cautioned appellant that given the *Dobbert* decision, there was a possibility the death penalty might be found applicable in his case" and "took steps to ensure that appellant's trial commenced

prior to October 1, 1977"). Mr. Gonzalez's not-guilty plea commenced his capital trial, and since his second penalty phase will be merely a continuation of that trial, it is an Ex Post Facto violation to subject him to brand new sentencing laws as the State sought to move the goalposts after the game began.

G. F.S. 775.022:

Petitioner filed a motion in the trial court entitled: Motion to Preclude Application of the Most Recent Statutory Amendments to F.S. 921.141 from this case, as such application would violate F.S. 775.022 [2A-20, pp. 201-205]. This motion was filed on 6/20/2023, which was after the filing of the initial petition (5/23/2023), and following the State's response (6/7/2023), but before this Court granted petitioner the right to amend (7/12/2023). The issue raised is that the new statute violates F.S. 775.022 and, therefore, violates the Constitution of the United States along with the Constitution of the State of Florida. The new law does not apply to petitioner's ***Hurst* resentencing** based upon F.S. 775.022 analysis.

F.S. 775.022(3) reads, in pertinent part: "Except as expressly provided in an act of the legislature … the reenactment or amendment of a criminal statute operates **prospectively** … and does not affect or abate … [t]he prior operation of the statute … [a] violation of the statute based on any act or omission occurring before the effective date of the act … [or] [a] prior penalty, prior forfeiture, or prior punishment incurred or imposed under the statute" (emphasis supplied).

When the Legislature amended F.S. 921.141, effective date 4/20/2023, dispensing with the jury unanimity requirement and replacing it with an 8-4 vote for death, it did not attempt to apply the amendments retroactively. In fact, the Legislature was silent on that point.

A statute that provides an unambiguous effective date is clear and controlling evidence of legislative intent. *See* ***State Farm Mut. Auto. Ins. Co. v. W. Gables Open MRI Servs., Inc.,*** 846 So. 2d 538, 540 (Fla. 3d DCA 2003). In amending the statute, the legislature stated that "[t]his act shall take effect upon becoming a law," which occurred when the Governor signed the bill into law on April 20, 2023. Ch. 2023-23, Laws of Fla. "[T]he Legislature's inclusion of an effective date for an amendment is considered to be evidence

rebutting intent for retroactive application of a law." *See* ***Fla. Ins. Guar. Ass'n v. Devon Neighborhood Ass'n,*** 67 So. 3d 187, 196 (Fla. 2011).

As the Florida Supreme Court has recognized, "the judiciary has an obligation, pursuant to the separation of powers contained in Article II, Section 3 of the Florida Constitution, to construe statutory pronouncements in strict accord with the legislative will." *See* ***Sebring Airport Auth. v. McIntyre***, 783 So. 2d 238, 244 (Fla. 2001).

Based upon F.S. 775.022, the new 8-4 for death law operates prospectively and cannot be said to apply to any of the fifty or more ***Hurst*** *resentencing* cases that are similarly situated to this case.

H. Other Constitutional Issues:

Petitioner filed a motion in the trial court entitled: Constitutional Objections to Defendant's Penalty Phase Jury Trial resentencing being conducted under the new 8-4 for Death Law [2A-21, pp. 206-248]. This motion was filed on 6/20/2023, which was after the filing of the initial petition (5/23/2023), and following the State's response (6/7/2023), but before this Court granted petitioner

the right to amend (7/12/2023). The issues raised are of constitutional proportion and, therefore, the new 8-4 for death law does not apply to ***Hurst*** resentencings as it violates the Constitution of the United States along with the Constitution of the State of Florida. The new law does not apply to petitioner's ***Hurst*** resentencing based upon the constitutional issues raised and the analysis herein.

Applying the new statutory provision in Mr. Gonzalez's case would deprive him of his Sixth and Fourteenth Amendment right to sentencing by a unanimous jury. *See* ***Ramos v. Louisiana***, 140 S. Ct. 1390 (2020) (his Eighth and Fourteenth Amendment right to be free of cruel and unusual punishment, and his corresponding rights under the Florida Constitution are clearly at stake). *See also* Art. I, Sections 9-10, 17 and 22, Fla. Const.

Allowing sentencing by a non-unanimous jury in Mr. Gonzalez's case would be unconstitutional on multiple grounds. The Court should deny the State's request to adopt or apply the 2023 legislation in this case, and instead should continue to require the unanimity standard on all findings necessary for a sentence of death under the

prior Florida statute, including the ultimate recommendation of death. The 2023 statute violates the Eighth Amendment because it lacks adequate safeguards to prevent arbitrary death sentences.

During the decades that have elapsed from the time the Supreme Court first upheld Florida's capital sentencing scheme in ***Proffitt v. Florida***, 428 U.S. 242, 252-53 (1976), the State of Florida has dismantled safeguards that protect against the imposition of unconstitutionally arbitrary death sentences in violation of the Eighth Amendment—as the U.S. Supreme Court long ago explained in *Furman*. In significant part, the Florida Supreme Court has abandoned comparative proportionality review in death penalty appeals. Meanwhile, the Legislature has adopted aggravating factors that have proliferated to the point where nearly all first-degree murder defendants are death-eligible. Now the Florida Legislature and Governor, by abandoning the requirement that a jury's recommendation for death must be unanimous has made this state an extreme outlier among capital punishment states and eviscerated yet another important safeguard of reliability. These developments misapplied the Supreme Court's decision in ***Pulley v. Harris***, 465 U.S.

37 (1984), and render Florida's capital sentencing scheme arbitrary, capricious, and unreliable.

Florida's sentencing scheme inflicts cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the Constitution of the United States and Article I, Section 17, of the Florida Constitution.

Proportionality Review was an important safeguard against Arbitrary Infliction of the Death Penalty. When the Supreme Court upheld the constitutionality of Florida's post-*Furman* (*see* ***Furman v. Georgia***, 408 U.S. 238 (1972) death penalty law in 1976, it emphasized that Florida's system of appellate review, to determine whether the ultimate penalty was or was not warranted, minimized any risk of arbitrary or capricious execution through proportionality review. ***Proffitt v. Florida***, 428 U.S. 242, 252-53 (1976). Trial judges' decisions to impose death "are reviewed to ensure that that they are consistent with other sentences imposed in similar circumstances," and thus in Florida it was no longer true that there was "no meaningful basis for distinguishing the few cases in which (the death penalty) is imposed from the many cases in which it is not." ***Olsen***

v. State, 67 P.3d 536, 610 (Wyo. 2003); *see also* ***Gregg v. Georgia***, 428 U.S. 153, 198 (1976) (citing Georgia's proportionality review procedure as a component that protected against arbitrary sentencing).

The Florida Supreme Court's abandonment of Proportionality Review, at a minimum, left Florida's scheme dangerously unreliable if not outright unconstitutional. Florida's recent abandonment of the unanimity requirement eliminated yet another important safeguard, rendering the statute as unconstitutional.

Historically, Florida's unanimity requirement was short-lived and is now gone. As a consequence of the overturning of ***Hurst v. State*** in ***Poole***, 297 So. 3d 487, and in response to the jury's determination that life imprisonment without parole is the appropriate sentence in the Parkland shooting case, Florida has returned to its extreme outlier status by reducing the required jury vote from 12-0 to only 8-4. Florida now has the lowest standard for imposing death in the country.

The 2023 statute violates the Sixth Amendment right to unanimous jury sentencing in capital cases. The United States

Constitution sets the "floor," if not the "ceiling," for the personal rights and freedoms that Florida law will protect. *See* ***State v. Horwitz***, 191 So.3d 429, 438 (Fla. 2016). Therefore, the Florida Constitution also guarantees the right to unanimous jury sentencing decision in capital cases. Art. I, Sections 16(a), 17 and 22, Fla. Const.

The historical record establishes that the right to a capital sentencing jury includes the right to unanimity. *Ramos* has now established that the constitutional right to a trial by jury, as guaranteed by the Sixth Amendment, includes the right to a unanimous jury. Consequently, the right to jury sentencing in capital cases also requires unanimity in the jury's sentencing decision. Even long before *Ramos*, courts and scholars recognized that the two went together.

Hurst and ***Ramos*** together have restored a centuries-old, fundamental practice of relying on unanimous juries in capital sentencing.

Our history and tradition can support only one conclusion: that the unanimous jury right guaranteed by the Sixth Amendment and Article I, Sections 17 and 22, of the Florida Constitution includes the right to a unanimous jury on the capital sentencing decision.

Petitioner here requests this Honorable Court to conduct a valid penalty phase proceeding under the standard of unanimous verdict for death, requiring unanimity for all findings required for a death sentence to be imposed by the trial court, including with respect to the ultimate sentencing decision, and any and all further relief as this Court deems just and proper.

Certificate of Petitioner

I, LEONARD PATRICK GONZALEZ, JR., the petitioner herein certify that I have read this Addendum Petition and discussed its issues for the Addendum Petition and the Addendum Appendix. I understand and agree with the addendum petition and addendum Appendix and authorize my lawyer to do this work on my behalf as evidenced by my signature below.

Dated: 7/11/2023 **/S/** Leonard Patrick Gonzalez, Jr.

CERTIFICATE OF COMPLIANCE

WE HEREBY CERTIFY that the foregoing Petition complies with the font requirements set forth in rule 9.210(a)(2) of the Florida Rules of Appellate Procedure, in that this Petition for Writ of Prohibition is printed in Bookman Old Style 14-point font, has a word-count of 5,062, and is double spaced.

/s/ Ira W. Still, III

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Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing Motion to Supplement was E-Filed with the Clerk and simultaneously E-Served upon Charmaine M. Millsaps, Esq., Sr. Assistant Attorney General, at capapp.millsaps@myfloridalegal.com whose office address is Office of the Attorney General, The Capitol, PL-01, Tallahassee, FL 32399-1050, and John Molchan, Esq., Assistant State's Attorney, at jmolchan@osa1.org whose office address is located at Office of the State Attorney, First Judicial Circuit, 190 West Government Street, Pensacola, FL 32501, and to Hon. Coleman Lee Robinson, First Circuit Judge at M.C. Blanchard Judicial Building, 190 Government Center, Pensacola, FL 32502, this 31st day of July 2023.

/s/ Ira W. Still, III
IRA W. STILL, III, ESQ.

/s/ Joseph A. Chambrot
JOSEPH A. CHAMBROT, ESQ.