

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NO.: 1983-CF-5401

Plaintiff,

vs.

DAVID EUGENE JOHNSTON,

Defendant.

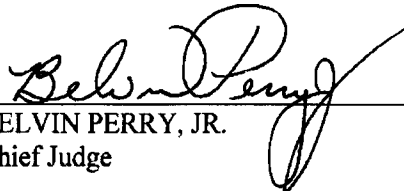
ORDER ON STATUS CONFERENCE

THIS MATTER came before this Court upon the Florida Supreme Court's March 4, 2010, order. On February 23, 2010, this Court entered its "Order Denying Sixth Successive Postconviction Relief Motion and Request for Leave to Amend." On appeal, however, the Florida Supreme Court reversed the summary denial of Mr. Johnston's claim of newly discovered evidence relating to mental retardation and relinquished jurisdiction to this Court for thirty days to hold an evidentiary hearing on the issue of whether the newly discovered evidence indicates that Mr. Johnston is mentally retarded. Having held a status hearing on the matter on March 5, 2010, it is hereby ORDERED AND ADJUDGED that:

1. Pursuant to Florida Rule of Criminal Procedure 3.203, the Court appoints Drs. Gregory A. Prichard and Sal Blandino to evaluate Mr. Johnston pursuant to his claim of mental retardation and to retest him if necessary using the Weschler Adult Intelligence Scale IV ("WAIS-IV").
2. The Court also directs Drs. Prichard and Blandino to examine Mr. Johnston pursuant to the entire three-prong test set forth in Rule 3.203.

3. Counsel for Mr. Johnston will provide all raw data used in the previous testing of Mr. Johnston by Drs. Hyman H. Eisenstein and Harry Krop to the State no later than Tuesday, March 9, 2010. The State may depose both Drs. Eisenstein and Krop.
4. Drs. Prichard and Blandino will provide this Court and all parties with copies of their reports on Mr. Johnston as soon as possible.
5. The evidentiary hearing will be held on Friday, March 26, 2010, in Courtroom 19D, commencing at 9:00 a.m. Saturday, March 27, 2010, has also been set aside for the hearing if needed.

DONE AND OREDERED in Chambers, at Orlando, Orange County, Florida, the 5th day of March 2010.


BELVIN PERRY, JR.
Chief Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of March, 2010, a true and correct copy of the foregoing Order was furnished by U. S. Mail and/or e-mail to:

___ Dr. Gregory A. Prichard, 1169 N. W. State Road 20, Bristol, Florida 32321;

___ Dr. Sal Blandino, 1640 Metropolitan Circle, Suite 4, Tallahassee, Florida 32308;

___ D. Todd Doss, Esquire, Counsel for Mr. Johnston, 725 S. E. Baya Drive, Suite 102, Lake City, Florida 32025-6092;

___ Jeff Ashton, Esquire, Assistant State Attorney, 415 N. Orange Avenue, Orlando, Florida 32801; and

___ Kenneth Nunnelley, Esquire, Assistant Attorney General, 444 Seabreeze Boulevard, 5th Floor, Daytona Beach, Florida 32118-3951.


Jill May
Judicial Assistant

FAX COVER SHEET

DATE: March 8, 2010

TO: D. Todd Doss, Esq.
Ken Nunnelley, Assistant Attorney General

FROM: Chief Judge Belvin Perry, Jr.

OFFICE TEL # 407-836-2008

OFFICE FAX # 407-836-2006

NO. PAGES (INCLUDING COVER SHEET): 3

COMMENTS:
