

No. 15-8753
**** DEATH PENALTY CASE ****

IN THE SUPREME COURT OF THE UNITED STATES

—————
DOYLE LEE HAMM,
Petitioner,

v.

COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS,
Respondent.

—————
On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

—————
**SUPPLEMENTAL BRIEF OF PETITIONER
ON PETITION FOR REHEARING**

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SUPPLEMENTAL BRIEF OF PETITION FOR REHEARING

This supplemental brief calls the Court's attention to two intervening developments that may affect the Court's consideration of this case.

I. Two Other Alabama Death Penalty Cases Before this Court Raise Similar Issues as Petitioner's Question 4.

The question of whether *Hurst v. Florida*, 136 S. Ct. 616 (2016), compels this Court to review the constitutionality of the Alabama death penalty scheme has been raised by Petitioner in his original petition and in his rehearing petition from the denial of certiorari. That exact question is presently raised in two other Alabama death penalty cases that this Court will be asked to hear.

The first intervening case involves the Alabama death row inmate, Thomas Arthur, whose request for a stay of execution was granted by this Court on November 3, 2016. Order in Pending Case, *Arthur v. Alabama*, No. 16-602. Just like Mr. Hamm, Mr. Arthur was sentenced to death by a judge following a non-unanimous jury verdict. Like Mr. Hamm, Mr. Arthur has argued that he was "sentenced to death under a statutory scheme on all fours with the Florida scheme found unconstitutional in *Hurst*." Petition for a Writ of Certiorari at 1, *Arthur v. Alabama*, No. 16-602 (Nov. 3, 2016). Both Mr. Hamm's case and Mr. Arthur's case are scheduled for conference on December 2, 2016. Mr. Hamm would ask that his petition for rehearing be considered in tandem with Mr. Arthur's petition for certiorari.

The second intervening case involves the Alabama death row inmate, Ronald Bert Smith, who is currently scheduled to be executed by the State of Alabama on

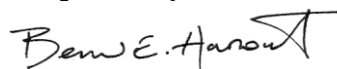
December 8, 2016. Memorandum Opinion and Order at 2, *Grayson v. Dunn*, No. 12-00316 (M. D. Ala. Nov. 18, 2016). His petitions for a stay of execution and writ of certiorari will come before the Court in a matter of days. Like Mr. Hamm and Mr. Arthur, Mr. Smith raises a *Hurst* issue. Petition for Original Writ of Habeas Corpus at 8-9, *Smith v. Alabama*, No. 1041432 (Ala. Sup. Ct. Nov. 10, 2016). In Mr. Smith's case, the sentencing jury recommended a sentence of life imprisonment without parole by a vote of 7 to 5. *Id.* at 8. The sentencing judge, however, disregarded and overrode the jury's verdict. *Id.* at 9.

Mr. Hamm would urge this Court, at the very least, to hold his case until it has decided whether to grant certiorari in these other two death penalty cases, as they raise identical legal arguments.

CONCLUSION

For the foregoing reasons, Mr. Hamm urges the Court to rehear his petition for certiorari in light of Mr. Arthur's and Mr. Smith's cases.

Respectfully submitted,



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