

IN THE SUPREME COURT OF FLORIDA

IN RE: RULES GOVERNING
CAPITAL POSTCONVICTION
ACTIONS.

CASE NO. SC00-242

_____ /

RESPONSE TO MOTION FOR CLARIFICATION

The Office of the Public Defender for the Fifteenth Judicial Circuit, by and through undersigned counsel, would urge this Honorable Court to deny the State's Motion For Rehearing. As grounds, it would state:

1. This Honorable Court's order is perfectly clear. It holds that the effect of the entire Death Penalty Reform Act (DPRA) is stayed and the ground rules for handling capital post-conviction cases in Florida are the same as they were prior to the DPRA.

2. The reasons for the stay order are obvious. There are serious constitutional questions concerning the DPRA and this Honorable Court must be able to resolve these in an orderly and reasoned fashion.

3. It must be pointed out that much of the State's argument is not directed at "clarifying" the order, but actually as argument that the DPRA is "substantive," rather than "procedural." This goes to the merits of the constitutional attack and is not a "motion for clarification."

4. It must also be pointed out that the State has already been the beneficiary of this Honorable Court's Order of February 7, 2000. Terry Sims was executed on February 23, 2000, and Anthony Bryan was executed on February 24, 2000. If this Court has not issued its order of February 7, 2000, it is likely that both of these executions would have been stayed until this Court decided all of the complex constitutional issues surrounding the DPRA. It is somewhat disingenuous for the State to have benefitted from this Court's February 7, 2000, order and now be questioning it.

WHEREFORE, the Office of the Public Defender of the Fifteenth Judicial Circuit urges this Honorable Court to deny the State's Motion for Clarification.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to CAROLYN M. SNURKOWSKI, Assistant Deputy Attorney General, Office of the Attorney General, The Capitol, Tallahassee Florida 32399-1050 and Arthur I. Jacobs, General Counsel, Florida Prosecuting

Attorneys' Association, P. O. Box 1110, Fernandina Beach Florida
32035-1110 by U.S. Mail this _____ day of March, 2000.

Of Counsel