

ORIGINAL

SUPREME COURT OF FLORIDA

CASE NO. ~~SC03-362~~

LOWER TRIBUNAL F89-12383B

FILED  
THOMAS D. HALL  
2003 OCT -2 P 1:22  
CLERK, SUPREME COURT  
BY 12383B

RONNIE JOHNSON,  
Petitioner,  
-vs-  
STATE OF FLORIDA,  
Respondent.

SC03-1752

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, **RONNIE JOHNSON**, through counsel, respectfully requests this Court issue a Writ of Habeas Corpus based upon ineffective assistance of counsel on direct appeal, and in support thereof would state:

1. RONNIE JOHNSON was indicted for first-degree murder of Lee Arthur Lawrence, in violation of Florida Statute Section 782.04 (Count I). Charged with him was Bobbie Lee Robinson, David Bertram Ingraham, and Rodney O'Neal Newsome. He was also accused with the same defendants with the attempted murder of Bernard Williams (Count 11), and Josias Dukes (Count 111), in violation of Florida Statute Sections 782.04 and 777.04.

2. On May 12, 1992, a jury trial commenced. On May 20, 1992, JOHNSON was found guilty of both counts.

3. The penalty phase commenced on May 21, 1992. The jury recommended a death sentence by a vote of 7-5.

4. On July 9, 1992, the Circuit Court entered its Sentencing Order. As to Count I, JOHNSON was sentenced to death. As to Count IIs and III, JOHNSON was sentenced to life imprisonment.

5. On direct appeal, the Florida Supreme Court affirmed JOHNSON's convictions and sentences after consolidating the appeal with the one being prosecuted from JOHNSON's conviction for first-degree murder and death sentence in Case No. F89-14998. Johnson v. State, 696 So.2d 326 (Fla. 1997). John Lipinski, Esq., was appointed to handle the appeal.

6. While the direct appeal was pending, the jury instruction to the aggravating factor of Cold, Calculated and Premeditated (CCP) given at JOHNSON's trial was declared unconstitutionally vague. See, Jackson v. State, 648 So.2d 85 (Fla. 1994).

7. Despite the fact that changes in the law can be retroactively applied to cases pending on direct appeal, JOHNSON's appellate lawyer failed to raise a challenge to the CCP instruction.

8. As a consequence of this failure to have briefed this issue, JOHNSON has been procedurally barred from asserting it in the Circuit Court by way of a Motion to Vacate, Set Aside, or Correct Illegal Sentence Filed

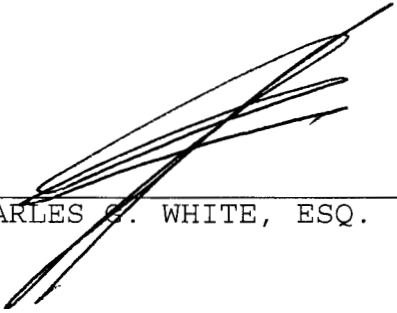
Pursuant to Rule 3.850 of the Florida Rules of Criminal Procedure.

THEREFORE, Petitioner requests this Court make a determination that his appellate counsel was ineffective, and order a new trial where the jury could be properly instructed.

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 1st day of October, 2003 to: ASSISTANT ATTORNEY GENERAL SANDRA S. JAGGARD, Office of the Attorney General, 444 Brickell Avenue, Suite 950, Miami, FL 33131; and GAIL LEVINE, ASST. STATE ATTORNEY, Office of the State Attorney, Graham Bldg., 1350 N.W. 12th Ave., Miami, FL 33125.

Respectfully submitted,

CHARLES G. WHITE, P.A.  
Counsel for Petitioner  
1031 Ives Dairy Road  
Suite 228  
Miami, Florida 33179  
Tel: (305) 914-0160  
Fax: (305) 914-0166  
Florida Bar No. 334170



---

CHARLES G. WHITE, ESQ.