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IN THE SUPREME COURT OF FLORIDA

FILED
THOMAS D. HALL

Case No. SC05-1702

2005 NOV 15 P 12:39

CLERK, SUPREME COURT

IN RE: AMENDMENTS TO FLORIDA RULE
OF CRIMINAL PROCEDURE 3.853 (D)

BY ~~CCPY~~

COMMENTS OF INTERESTED PERSON

In accordance with In re: Amendments to Florida Rule of Criminal Procedure 3.853 (d), 30 Fla. L. Weekly S661 (Fla. September 29, 2005), Kris Edward Helton, an interested person, respectfully submits his comments on the proposed amendment submitted by The Florida Bar Criminal Procedure Rules Committee to eliminate subdivision (d)(1) of Florida Rule of Criminal Procedure 3.853:

Helton believes that the Court ought to carefully consider the fact that arbitrary time limitation periods — like the one provided by Florida Rule of Criminal Procedure 3.853 (d)(1) — can and do result in the flat-out denial of justice, even when there has been a post-trial discovery of exculpatory scientific evidence which turns out to be "inviolable proof of innocence." See e.g. Helton v. Singletary, 85 F. Supp. 2d 1323, 1332-33 (S.D. Fla. 1999) (habeas corpus granted), affirmed, 233 F.3d 1322 (11th Cir. 2000) (affirming the grant of habeas corpus relief on the merits), rehearing granted, 257 F.3d 1262 (11th Cir. 2001), 259 F.3d 1310 (11th Cir. 2001)

(reversing the grant of habeas corpus relief based upon a purely procedural time limitation period), rehearing and rehearing en banc denied, 275 F.3d 49 (11th Cir. 2001), certiorari denied, 535 U.S. 1080, 122 S.Ct. 1465, 152 L.Ed.2d 1025 (2002).

There is simply no good reason why someone should be imprisoned for the rest of his or her life — or even be executed — for a crime he or she did not commit merely because of some non-compliance with an arbitrary time limitation period, especially when readily available scientific evidence can and will demonstrate their actual, factual innocence. See e.g. Helton, supra.

Respectfully submitted,

Kris Edward Helton

Kris Edward Helton #864458

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof was served by first-class mail on Committee Chair George E. Tragos, The Florida Bar Criminal Procedure Rules Committee, 600 Cleveland Street, Suite 700, Clearwater, FL 33755-4158, on this 9th day of November, 2005.

Kris Edward Helton

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