

**IN THE SUPREME COURT OF FLORIDA**

**CASE NO. SC14-2278**

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**CHARLES GROVER BRANT**  
**Petitioner,**

**v.**

**MICHAEL D. CREWS**  
**SECRETARY, DEPARTMENT OF CORRECTIONS**  
**Respondent.**

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**REPLY TO STATE'S RESPONSE TO HABEAS PETITION**

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## GROUND FOR HABEAS CORPUS RELIEF

Brant relies on his Habeas Petition as to all claims. Any arguments not addressed are not waived.

**Claim 1: Appellate Counsel failed to raise the argument that this Court's proportionality review fails to consider rape/murder cases where the State either did not seek death or where the jury recommended a life sentence and therefore, in Mr. Brant's case, this Court's proportionality review fails to sufficiently narrow the class of offenders, violates Mr. Brant's right to equal protection of the laws and fails to recognize and give weight to the evolving standards of decency that mark the progress of a maturing society. This Court should find his death sentence is not proportionate with sentences defendants' have received in other rape/murders.**

The State argues that Brant's claim that this Court's proportionality review in failing to consider other rape/murders where the defendant did not receive a death sentence is "procedurally barred." State Habeas Response, p. 5. However, Brant clearly alleged on page 16 of his Habeas Petition that his claim alleged failure of appellate counsel to argue that this Court should consider other cases of rape/murders where the Defendant was not sentenced to death. While Brant did also argue a substantive claim, he also squarely alleged an ineffective assistance of appellate counsel claim. This Court should consider both variations of Brant's claim.

The State also asserts that, because Brant faults the process because there is no limit or guidelines on prosecutorial discretion to seek the death penalty in the State of Florida, "Brant presumably would have the State seek the death penalty anytime a defendant is indicted for first degree murder, just to give this Court a

broader span of cases with which to conduct a proportionality review.” State Habeas Response, p. 8. The State misapprehends Brant’s argument. The Eighth Amendment requires a reasoned, guided application of the death penalty. The unfettered prosecutorial discretion which occurs in this State results in an arbitrary and capricious application of the death penalty. This Court, in fulfilling its duty to act as “an additional safeguard against arbitrarily imposed death sentences,” *Pulley v. Harris*, 465 U.S. 37, 50 (1984), should broaden its proportionality review to consider all murder cases, even those from jurisdictions within the State which are less likely to seek death and accordingly do not seek death in rape/murder cases where the defendant has no prior violent record and was tragically addicted to a drug such as methamphetamine. In light of the fact that appellate counsel waived only one issue, his failure to argue that this Court should expand its appellate review was deficient performance which prejudiced Brant.

### **CONCLUSION**

For all the reasons discussed herein, Mr. Brant respectfully urges this Honorable Court to grant habeas relief and set aside his sentence of death.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Petition for Writ of Habeas Corpus has been electronically filed with the Clerk of the Supreme Court

and electronically delivered to Sara Macks, Assistant Attorney General at [sara.macks@myfloridalegal.com](mailto:sara.macks@myfloridalegal.com) and [CapApp@myfloridalegal.com](mailto:CapApp@myfloridalegal.com) on this 16<sup>th</sup> day of March 20, 2015. I further certify that a true copy of the foregoing was mailed to Charles Grover Brant, DOC#588873, Union Correctional Institution, 7819 NW 228<sup>th</sup> Street, Raiford, FL 32026-4430.

**s/Marie-Louise Samuels Parmer**

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing Petition for Writ of Habeas Corpus, was generated in a Times New Roman, 14 point font, pursuant to Fla. R. App. P. 9.210.

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