

Supreme Court of Florida

MONDAY, APRIL 12, 2010

CASE NO.: SC10-356

Lower Tribunal No(s): CR 83-5401

DAVID EUGENE JOHNSTON

vs. STATE OF FLORIDA

Appellant(s)

Appellee(s)

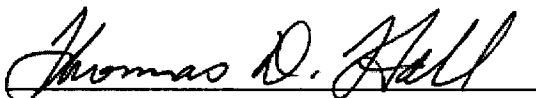
David Eugene Johnston, a prisoner under sentence of death, appealed the summary denial of his postconviction motion alleging newly discovered evidence regarding mental retardation. By order entered March 4, 2010, jurisdiction was temporarily relinquished to the circuit court for the purpose of holding an evidentiary hearing on the claim. A hearing was held and, on April 5, 2010, the circuit court entered an order finding that Johnston is not mentally retarded. Jurisdiction has returned to this Court and a supplemental record of proceedings was filed in this Court on April 9, 2010.

Appellant shall have **fifteen** days from the date of this order in which to file a supplemental initial brief on the merits consisting of no more than fifty pages. The appellee shall have **fifteen** days thereafter in which to file a supplemental answer brief on the merits consisting of no more than fifty pages. The appellant shall have **ten** days thereafter in which to file any reply brief on the merits consisting of no more than fifteen pages. **Supplemental briefs shall be limited to the issues addressed in the relinquishment proceeding in the circuit court.**

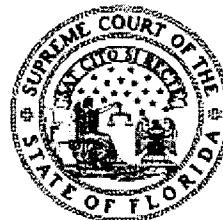
Per this Court's Administrative Order In Re: Mandatory Submission of Electronic Copies of Documents, AOSC04-84, dated September 13, 2004, counsel are directed to transmit a copy of all briefs in an electronic format as required by the provisions of that order.

A True Copy

Test:



Thomas D. Hall
Clerk, Supreme Court



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Served:

D. TODD DOSS

KENNETH S. NUNNELLEY