

an evidentiary hearing has been met with an answer by the State to the effect that the *Lightbourne* hearing is the lead case on the issue.

On July 18, 2007, the Governor signed a warrant for the execution of Mark Schwab. The warrant and attachments scheduled the execution for the week of November 12, which is notably longer than has been the case in the past. The same morning, the Florida Supreme Court issued an order establishing a trial court litigation deadline and appellate briefing schedule in *Lightbourne*, with oral argument set for October 11. The next day, the Court issued a similar schedule in this case, with oral argument set at the same time as in *Lightbourne*. That there is a connection between the two cases is obvious.

2. A motion challenging Florida's lethal injection method of execution will be filed in this case. All of the record in the *Lightbourne* case will be relevant to the lethal injection issue in this case.

3. This request falls under the discretionary judicial notice provisions F.S. §90.202.

4. As a practical matter, the transcripts of the *Lightbourne* hearing are easily available and in fact are posted on various sites on the internet. Easily reproducible exhibits can also be easily provided. Access to physical exhibits will require further consideration by the Court.

Wherefore, the Defendant moves that the Court take judicial notice of the file in *Lightbourne v. State*.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Motion for Judicial Notice has been furnished by E-mail, Fax and United States Mail, first class postage prepaid, to all counsel of record on August 13, 2007.

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