

**IN THE CIRCUIT COURT OF THE  
EIGHTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BREVARD COUNTY,  
FLORIDA**

**STATE OF FLORIDA,** :  
                  **Plaintiff,** :  
                                  : :  
                                  : :  
**v.** : :  
                                  : :  
**MARK DEAN SCHWAB,** :  
                  **Defendant.** :  
\_\_\_\_\_ / :

**CASE NO.: CR 91-7249-CF-A**  
  
**CAPITAL CASE; WARRANT SIGNED  
EXECUTION SCHEDULED**

**DEFENDANT'S MOTION TO VIEW EXECUTION CHAMBER  
AND WITNESS A WALK THROUGH**

Defendant, **MARK DEAN SCHWAB**, by and through undersigned counsel, hereby submits this Motion to View Execution Chamber and Witness a Walk Through. In support thereof, Mr.Schwab, through counsel, states:

1. Mr. Schwab will be filing a claim that Florida’s lethal injection procedures are unconstitutional under the Eighth Amendment’s prohibition against cruel and unusual punishment and the corresponding provisions of the Florida Constitution
2. During the pending proceedings in the related case of *State v. Lightbourne*, Circuit Court Case No. 1981-170-CF-A-01, Marion County, there has been testimony regarding the physical layout of the execution chamber and surrounding areas, including changes that were made since the botched Angel Diaz execution. There has also been testimony that DOC invited several dignitaries, including the Governor's assistant general counsel, to tour the execution chamber and surrounding areas, and to observe a recent walk-through of a mock execution.
3. During the *Lightbourne* hearing, Tim Westveer, the FDLE observer, who ideally should have a clear and comfortable view of the inmate, stated that the room he was in was so

dark that he could not see his wristwatch and he had to stand on his tiptoes in order to see completely through the window into the execution chamber. Moreover, the lights in the chemical room, where the executioners are actually administering the lethal chemicals, are turned off prior to the execution except for one light near the IV bags.

4. At a hearing on August 9, 2007, Judge Angel granted a similar request in *Lightbourne*.

5. In order to be able to better evaluate DOC's ability to follow the new protocol, which counsel for Mr. Schwab received on August 1, 2007, counsel for Mr. Schwab and this Court should also have an opportunity to view the execution chamber. Additionally, counsel for Mr. Schwab requests an opportunity to observe a walk through of a mock execution prior to the commencement of the final hearing, in order to evaluate DOC's ability to follow the new protocol, as well as its ability to provide training to execution team members. According to Warden Cannon's testimony, the execution team conducts a walk through of a mock execution every other week. (*Lightbourne* Transcript 07/19/07 hearing, p. 1990).

WHEREFORE, Mr. Schwab respectfully requests this Court grant his Motion to View Execution Chamber and Witness a Walk Through.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Defendant's Motion to View Execution Chamber and Witness a Walk Through 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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