

IN THE SUPREME COURT OF FLORIDA

FILED
THOMAS D. HALL

2009 JUN 22 P 3:22

CLERK, SUPREME COURT

BY _____

JOHN RICHARD MAREK,
Appellant,

v.

CASE NO. SC09-821

STATE OF FLORIDA,
Appellee.

_____/

**STATE'S NOTICE OF COMPLIANCE; REQUEST FOR BRIEFING SCHEDULES AND
MOTION TO CONSOLIDATE SUCCESSIVE POSTCONVICTION MOTIONS**

The State files this Notice of Compliance; Request For Briefing Schedules and Motion to Consolidate Successive Postconviction Motions and would show:

1. On Friday, June 19, 2009, the trial court, after evidentiary hearing held June 1-2, 2009, entered its Orders denying all postconviction review following this Court's May 21, 2009, Order, reversing and remanding for a new evidentiary hearing before another judge of the Seventeenth Judicial Circuit in the above styled cause.

2. The Orders entered resolved not only the pending successive motion filed on May 1, 2009, but in a separate order, the trial court also determined, without further evidentiary

review, Marek's fourth postconviction motion filed June 12, 2009.

3. The State would submit that the May 21, 2009, remand order has been complied with and requests that a briefing schedule for appellate review be expedited to allow the matter to move forward since a stay of execution currently remains in place. Many of the legal issues have not changed and the factual matters were briefed in the written closing arguments of the parties. Therefore, an expedited briefing schedule is in order.

4. The State would also request consolidation of Marek's "May 1, 2009, third and, June 12, 2009, fourth successive motions for postconviction review", for briefing and oral argument purposes since, they are inextricably intertwined regarding Marek's issues as to Judge Kaplan's and defense counsel's, Moldof's, representation of Marek.

CONCLUSION

In light of the special circumstances of this case and the expedited scheduling thus far imposed in the instant case, the State respectfully requests this Court grant the instant motions in toto.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing STATE'S NOTICE OF COMPLIANCE; REQUEST FOR BRIEFING SCHEDULES AND MOTION TO CONSOLIDATE SUCCESSIVE POSTCONVICTION MOTIONS has been furnished via e-mail to martymcclain@earthlink.net, lindammcdermott@msn.com, jlevenso@17th.flcourts.org, CMcCann@sao17.state.fl.us, & sbailey@sao17.state.fl.us and via U.S. mail to Martin J. McClain, McClain & McDermott, PA, 141 NE 30th Street, Wilton Manors, FL 33334, this 22nd day of June, 2009.

Carolyn M. Snurkowski
Attorney for Plaintiff