

## **APPENDIX**

**APPENDIX**

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**APPENDIX**

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**IN THE CIRCUIT COURT OF  
MONTGOMERY COUNTY, ALABAMA**

**Case No.: CC-07-1388.60**

**[Filed September 23, 2015]**

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MARIO DION WOODWARD	)
	)
Petitioner,	)
v.	)
	)
STATE OF ALABAMA	)
	)
Respondent.	)

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**AMENDMENT TO AMENDED PETITION FOR  
RELIEF FROM JUDGMENT PURSUANT TO  
RULE 32 OF THE ALABAMA RULES OF  
CRIMINAL PROCEDURE**

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Pursuant to Rule 32.7(b) of the Alabama Rules of Criminal Procedure, Mr. Woodward hereby amends his Amended Petition for Relief From Judgment Pursuant to Rule 32 of the Alabama Rules of Criminal Procedure

(“Amended Rule 32 Petition”) so as to include a new claim for relief, as follows:<sup>1</sup>

**III. THE COMBINATION OF JUDICIAL OVERRIDE AT SENTENCING AND THE ASSIGNMENT OF THIS RULE 32 CASE TO THE OVERRIDE JUDGE VIOLATES MR. WOODWARD’S CONSTITUTIONAL RIGHTS.**

1. On September 25, 2008, Judge Truman M. Hobbs, Jr. sentenced Mario Dion Woodward to death, thereby overriding the jury’s recommendation that Mr. Woodward receive a punishment of life imprisonment without the possibility of parole. Mr. Woodward objected to the use of override in the trial court and argued on appeal that the override was unconstitutional. As Justice Sotomayor recognized in her dissent from the Supreme Court’s denial of certiorari:

What could explain Alabama judges’ distinctive proclivity for imposing death sentences in cases where a jury has already rejected that penalty? . . . The only answer that is supported by empirical evidence is one that, in my view, casts a cloud of illegitimacy over the criminal justice system: Alabama judges, who are elected in partisan proceedings, appear to have succumbed to electoral pressures.

*Woodward v. Alabama*, 134 S.Ct. 405, 408 (2013) (Sotomayor, J., dissenting from). On September 14,

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<sup>1</sup> Along with this amendment, Mr. Woodward has filed a “Motion for Leave to Amend” his Petition.

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2015, Mr. Woodward filed a Motion for Recusal, requesting that Judge Hobbs be recused from presiding over Mr. Woodward's Rule 32 proceedings because, *inter alia*, he overrode the jury's sentencing recommendation and sentenced Mr. Woodward to death. *See* Dkt. #79-96 (Motion for Recusal).

2. On September 22, 2015, Judge Hobbs issued a one-page order denying the Motion for Recusal. *See* Dkt. #98.

3. For all the reasons set forth in Mr. Woodward's Motion for Recusal, which is hereby incorporated by reference as if set forth in its entirety, and those reasons set forth in Justice Sotomayor's dissent, judicial override is unconstitutional. *See Woodward*, 134 S.Ct. at 405–12.

4. Even if override alone were not unconstitutional, the imposition of a death sentence by override is unconstitutional where the override process also taints the fairness of the defendant's post-conviction proceedings by having the same override judge preside over the post-conviction proceedings. The fundamental unfairness of such a procedure is detailed in Mr. Woodward's Motion for Recusal.

5. Therefore, not only is override itself unconstitutional, but override combined with a Rule 32 proceeding that is presided over by the same override judge renders the entire process unfair and violates Mr. Woodward's rights under Alabama law and the Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution.

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WHEREFORE, for the foregoing reasons, those reasons detailed in the Amended rule 32 Petition and for any other reasons that may appear to this Court, Mr. Woodward respectfully requests that this Court grant him the relief requested in his Amended Rule 32 Petition.

Respectfully submitted,

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