

IN THE SUPREME COURT OF FLORIDA  
CASE NO. 96,802

ANTHONY BRADEN BRYAN,

Appellant,

v.

MICHAEL W. MOORE,  
Secretary, State of Florida,  
Department of Corrections,  
JAMES CROSBY, Superintendent,  
Florida State Prison,

Appellee.

Emergency Pleading  
Death Warrant Signed  
Execution Set for  
October 27, 1999  
at 7:00 a.m.

RESPONSE TO MOTION TO CONSOLIDATE  
AND EXPAND ORAL ARGUMENTS

COMES NOW the State of Florida, by and through the undersigned counsel, and files with this Court the instant response to Bryan's Motion to Consolidate and Expand Oral Arguments:

1. This cause is before this Court on Bryan's appeal from the denial of his second postconviction motion, and oral argument is scheduled for tomorrow at 9:00 a.m.

2. Today, Bryan filed a successive state habeas corpus petition, and this Court has likewise scheduled oral argument on that matter for tomorrow at 9:00 a.m.

3. In the instant pleading, Bryan points out that the allegedly newly discovered matter which gave rise to this successive petition -- an affidavit from trial counsel -- also gave rise to yet a third postconviction motion, filed today in the

circuit court. Bryan contends that, in the interest of judicial economy, this Court should dispose of the postconviction appeal and successive habeas together.

4. The State of Florida agrees, and would go one step further. The State has responded to Bryan's third postconviction motion, and contends in its response (which is attached hereto) that such pleading is a facially insufficient, procedurally barred abuse of process; this Court can surely resolve this same question of law. Due to exigencies of time, the State would request that (to the extent that the circuit court is unable to do so), this Court resolve Bryan's latest postconviction challenge in conjunction with the two matters already pending before this Court.

WHEREFORE for the aforementioned reasons, the above requested relief should be granted.

Respectfully submitted,

ROBERT A. BUTTERWORTH  
ATTORNEY GENERAL

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RICHARD B. MARTELL  
CHIEF, CAPITAL APPEAL  
FLORIDA BAR NO. 300179

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COUNSEL FOR APPELLEE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer Brief has been furnished by U.S. Mail to Andrew Thomas, Assistant CCRC, Capital Collateral Regional Counsel, Northern Region, P.O. Drawer 5498, Tallahassee, Florida 32314-5498, this 25th day of October, 1999.

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RICHARD B. MARTELL  
CHIEF, CAPITAL APPEALS