

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 86-43

IN RE:

PROCEDURE FOR HANDLING HABEAS
CORPUS DEATH CASES

Upon consideration by the Judges of the United States District Court for the Southern District of Florida, it is,

ORDERED, ADJUDGED and DECREED that the pronouncement of policy set forth in the attached document entitled "Standard Procedures for Handling Habeas Corpus-Death Cases in the Southern District of Florida" shall be disseminated to all counsel of record in habeas corpus petitions hereafter filed under 28 U.S.C. §2254.

DONE and ORDERED in chambers at the United States Courthouse, Federal Courthouse Square, Miami, Florida, this 22nd day of August 1986.


JAMES LAWRENCE KING
CHIEF U.S. DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

cc: All Southern District Judges
All United States Magistrates
Clerk of Court
Court Executive

STANDARD PROCEDURES FOR HANDLING HABEAS CORPUS -- DEATH CASES
IN THE SOUTHERN DISTRICT OF FLORIDA

I. POLICY OF THE COURT

It is the policy of this Court that all habeas corpus death petitions shall be specially designated as cases having the highest priority of any case, civil or criminal, filed in this District. It is the specific intention of these rules to insure the prompt disposition of all such cases.

The Chief Judge of the Southern District of Florida is authorized to notify the Attorney General of the State of Florida, and all other interested parties, attorneys or judicial officers of the policy of this Court in all death cases. It is the further intention of this Court that the State be placed on formal notice that in the absence of extraordinary circumstances no motions for extensions of time or continuancés will be granted in these matters.

II. IMPLEMENTATION

It is the formal policy of this Court in all death cases that at the time the Petition for habeas corpus is filed and assigned to a specific United States District Judge, the cause shall be scheduled for an initial status conference to take place within five (5) days. This initial hearing will address the Petitioner's contentions, define the issues and determine the need for any additional hearings. If an evidentiary hearing is required, or additional oral argument is scheduled, that hearing shall be conducted no later than thirty (30) days after the

initial hearing. Moreover, the District Judge will immediately address the following motions:

1. Any Application for Stay of Execution;
2. Any Motion to Admit Counsel Pro Hac Vice;
3. Any Motion for Leave to Proceed In Forma Pauperis;
4. Any motion for Leave to File Memorandum in Excess of Twenty Pages;
5. Any Motion for Payment of Expenses of Witnesses and Discovery Motions.

In addition, the assigned District Judge will, in all appropriate circumstances, enter the following:

1. An Order Directing the Respondent/State to File a response and furnish transcripts of the trial and other hearings at a date no later than five (5) days from the date the Petition is filed;
2. An Order Directing the parties to complete the Habeas Corpus checklist recommended by the Eleventh Circuit Court of Appeals (a copy of which is attached hereto) within twenty-four (24) hours of the filing of the death Petition.

It is the firm policy of this Court that the District Judge shall render a final written opinion in all death cases within five (5) months of the conclusion of the last hearing held.

Utilizing the aforementioned procedures, all habeas corpus death cases shall be decided in the Southern District of Florida within a maximum period of six (6) months and five (5) days from the date of the filing of the Petition.

If a District Judge is unable to complete a final written opinion within five months of the final hearing, that Judge will notify the Chief Judge in writing within that time frame stating the reasons for the delay and the expected completion date.

The Chief Judge may, in appropriate circumstances, assist the assigned District Judge in the prompt disposition of the death case by reassigning any other criminal case assigned to that Judge until the completion of the death case.

- (2) State's Opening Statement to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (3) Petitioner's Opening Statement to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (4) State's Case Begins:
Volume ____ Page ____ Tab # ____ None ____
- (5) Petitioner's Case Begins:
Volume ____ Page ____ Tab # ____ None ____
- (6) State's Closing Argument to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (7) Petitioner's Closing Argument to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (8) Trial Court's Instructions to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (9) Petitioner's Objections to the Instructions:
Volume ____ Page ____ Tab # ____ None ____
- (10) Jury's Verdict:
Volume ____ Page ____ Tab # ____ None ____

B. Sentencing Phase of the Trial:

- (1) State's Opening Statement to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (2) Petitioner's Opening Statement to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (3) State's Case:
Volume ____ Page ____ Tab # ____ None ____
- (4) Petitioner's Case:
Volume ____ Page ____ Tab # ____ None ____

- (5) State's Closing Argument to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (6) Petitioner's Closing Argument to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (7) Trial Court's Instructions to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (8) Petitioner's Objections to the Instructions:
Volume ____ Page ____ Tab # ____ None ____
- (9) Jury's Recommendation:
Volume ____ Page ____ Tab # ____ None ____
- (10) Sentencing Hearing Before State Trial Judge:
Volume ____ Page ____ Tab # ____ None ____
- (11) Presentence Investigation Report:
Volume ____ Page ____ Tab # ____ None ____
- (12) Sentence:
Volume ____ Page ____ Tab # ____ None ____

(C) Pretrial Proceedings:

- (1) Motion(s) to Suppress:
Volume ____ Page ____ Tab # ____ None ____
Volume ____ Page ____ Tab # ____ None ____
Volume ____ Page ____ Tab # ____ None ____
- (2) Hearings on Motion(s) to Suppress:
Volume ____ Page ____ Tab # ____ None ____
Volume ____ Page ____ Tab # ____ None ____
Volume ____ Page ____ Tab # ____ None ____
- (3) State Trial Court's Rulings on Motion(s):
Volume ____ Page ____ Tab # ____ None ____
Volume ____ Page ____ Tab # ____ None ____
Volume ____ Page ____ Tab # ____ None ____

III. Petitioner's Direct State Court Appeal

If any portion of the direct state court appeal record or transcript is to be submitted in support of the petition, petitioner's counsel must index tab each portion or phase of the record indicated below:

A. Petitioner's Brief(s) to the Florida Supreme Court:

Volume ____ Page ____ Tab # ____

B. State's Brief(s) to the Florida Supreme Court:

Volume ____ Page ____ Tab # ____

C. Florida Supreme Court's Dispositive Opinion/Order:

Volume ____ Page ____ Tab # ____

IV. Petitioner's Collateral Proceedings Under Florida's Rule 3.850 Motion to Vacate, Set Aside, or Correct Sentence

If any portion of a Rule 3.850 collateral proceeding record or transcript is to be submitted in support of the petition, petitioner's counsel must index tab each portion or phase of the record indicated below:

A. Rule 3.850 Proceeding Dated _____

(1) Petitioner's Rule 3.850 Motion:

Volume ____ Page ____ Tab # ____ None ____

(2) State's Response:

Volume ____ Page ____ Tab # ____ None ____

(3) Was There an Evidentiary Hearing? Yes ____ No ____

(4) Transcript of the Evidentiary Hearing:

Volume ____ Page ____ Tab # ____ None ____

(5) Court's Dispositive Order/Opinion:

Volume ____ Page ____ Tab # ____ None ____

(6) Petitioner's Direct State Court Appeal of this Rule 3.850 Decision:

- A. Petitioner's Brief(s):
Volume ____ Page ____ Tab # ____ None ____
- B. State's Brief(s):
Volume ____ Page ____ Tab # ____ None ____
- C. Was There an Evidentiary Hearing?
Yes ____ No ____
- D. Transcript of Evidentiary Hearing:
Volume ____ Page ____ Tab # ____ None ____
- E. Court's Dispositive Order/Opinion:
Volume ____ Page ____ Tab # ____ None ____

B. Rule 3.850 Proceeding Dated: _____

- (1) Petitioner's Rule 3.850 Motion:
Volume ____ Page ____ Tab # ____ None ____
- (2) State's Response:
Volume ____ Page ____ Tab # ____ None ____
- (3) Was There an Evidentiary Hearing? Yes ____ No ____
- (4) Transcript of the Evidentiary Hearing:
Volume ____ Page ____ Tab # ____ None ____
- (5) Court's Dispositive Order/Opinion:
Volume ____ Page ____ Tab # ____ None ____
- (6) Petitioner's Direct State Court Appeal of this Rule 3.850 Decision:
 - A. Petitioner's Brief
Volume ____ Page ____ Tab # ____ None ____
 - B. State's Brief:
Volume ____ Page ____ Tab # ____ None ____

C. Was there an evidentiary hearing?

Yes _____ No _____

D. Transcript of Evidentiary Hearing:

Volume _____ Page _____ Tab # _____ None _____

E. Court's Dispositive Order/Opinion:

Volume _____ Page _____ Tab # _____ None _____

C. Rule 3.850 Proceeding Dated: _____

(1) Petitioner's Rule 3.850 Motion:

Volume _____ Page _____ Tab # _____ None _____

(2) State's Response:

Volume _____ Page _____ Tab # _____ None _____

(3) Was There an Evidentiary Hearing? Yes _____ No _____

(4) Transcript of Evidentiary Hearing:

Volume _____ Page _____ Tab # _____ None _____

(5) Court's Dispositive Order/Opinion:

Volume _____ Page _____ Tab # _____ None _____

V. Prior Federal Habeas Corpus Proceedings

If any portion of a prior federal habeas corpus record or transcript is to be submitted in support of the petition, petitioners must summarize the decision of the prior federal habeas corpus case and must index tab each portion or phase of the record indicated below:

A. District Court Case Number: _____

(1) Name of the District Court: _____

(2) Relief Granted (if any): _____

(3) Is the Record of this Proceeding to be Included in this Proceeding? Yes _____ No _____ Tab # _____

(4) If Appealed, Court of Appeals Case Number: _____

(5) Court of Appeals Citation: _____

(6) Court of Appeals Disposition _____
Tab # _____

B. District Court Case Number: _____

(1) Name of the District Court: _____

(2) Relief Granted (if any): _____

(3) Is the Record of this Proceeding to be Included in this Proceeding? Yes _____ No _____ Tab # _____

(4) If Appealed, Court of Appeals Case Number: _____

(5) Court of Appeals Citation: _____

(6) Court of Appeals Disposition: _____
Tab # _____

C. District Court Case Number: _____

(1) Name of the District Court: _____

(2) Relief Granted (if any): _____

(3) Is the Record of this Proceeding to be Included in this Proceeding? Yes _____ No _____ Tab # _____

(4) If Appealed, Court of Appeals Case Number: _____

(5) Court of Appeals Citation: _____

(6) Court of Appeals Disposition: _____
Tab # _____

Prepared By:

Date Prepared:

- (2) State's Opening Statement to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (3) Petitioner's Opening Statement to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (4) State's Case Begins:
Volume ____ Page ____ Tab # ____ None ____
- (5) Petitioner's Case Begins:
Volume ____ Page ____ Tab # ____ None ____
- (6) State's Closing Argument to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (7) Petitioner's Closing Argument to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (8) Trial Court's Instructions to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (9) Petitioner's Objections to the Instructions:
Volume ____ Page ____ Tab # ____ None ____
- (10) Jury's Verdict:
Volume ____ Page ____ Tab # ____ None ____

B. Sentencing Phase of the Trial:

- (1) State's Opening Statement to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (2) Petitioner's Opening Statement to the Jury:
Volume ____ Page ____ Tab # ____ None ____
- (3) State's Case:
Volume ____ Page ____ Tab # ____ None ____
- (4) Petitioner's Case:
Volume ____ Page ____ Tab # ____ None ____

- (5) State's Closing Argument to the Jury:
Volume _____ Page _____ Tab # _____ None _____
- (6) Petitioner's Closing Argument to the Jury:
Volume _____ Page _____ Tab # _____ None _____
- (7) Trial Court's Instructions to the Jury:
Volume _____ Page _____ Tab # _____ None _____
- (8) Petitioner's Objections to the Instructions:
Volume _____ Page _____ Tab # _____ None _____
- (9) Jury's Recommendation:
Volume _____ Page _____ Tab # _____ None _____
- (10) Sentencing Hearing Before State Trial Judge:
Volume _____ Page _____ Tab # _____ None _____
- (11) Presentence Investigation Report:
Volume _____ Page _____ Tab # _____ None _____
- (12) Sentence:
Volume _____ Page _____ Tab # _____ None _____

(C) Pretrial Proceedings:

- (1) Motion(s) to Suppress:
Volume _____ Page _____ Tab # _____ None _____
Volume _____ Page _____ Tab # _____ None _____
Volume _____ Page _____ Tab # _____ None _____
- (2) Hearings on Motion(s) to Suppress:
Volume _____ Page _____ Tab # _____ None _____
Volume _____ Page _____ Tab # _____ None _____
Volume _____ Page _____ Tab # _____ None _____
- (3) State Trial Court's Rulings on Motion(s):
Volume _____ Page _____ Tab # _____ None _____
Volume _____ Page _____ Tab # _____ None _____
Volume _____ Page _____ Tab # _____ None _____

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If any portion of the direct state court appeal record or transcript is to be submitted in support of the petition, petitioner's counsel must index tab each portion or phase of the record indicated below:

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Volume ____ Page ____ Tab # ____

B. State's Brief(s) to the Florida Supreme Court:

Volume ____ Page ____ Tab # ____

C. Florida Supreme Court's Dispositive Opinion/Order:

Volume ____ Page ____ Tab # ____

IV. Petitioner's Collateral Proceedings Under Florida's Rule 3.850 Motion to Vacate, Set Aside, or Correct Sentence

If any portion of a Rule 3.850 collateral proceeding record or transcript is to be submitted in support of the petition, petitioner's counsel must index tab each portion or phase of the record indicated below:

A. Rule 3.850 Proceeding Dated _____

(1) Petitioner's Rule 3.850 Motion:

Volume ____ Page ____ Tab # ____ None ____

(2) State's Response:

Volume ____ Page ____ Tab # ____ None ____

(3) Was There an Evidentiary Hearing? Yes ____ No ____

(4) Transcript of the Evidentiary Hearing:

Volume ____ Page ____ Tab # ____ None ____

(5) Court's Dispositive Order/Opinion:

Volume ____ Page ____ Tab # ____ None ____

(6) Petitioner's Direct State Court Appeal of this Rule 3.850 Decision:

A. Petitioner's Brief(s):

Volume ____ Page ____ Tab # ____ None ____

B. State's Brief(s):

Volume ____ Page ____ Tab # ____ None ____

C. Was There an Evidentiary Hearing?

Yes ____ No ____

D. Transcript of Evidentiary Hearing:

Volume ____ Page ____ Tab # ____ None ____

E. Court's Dispositive Order/Opinion:

Volume ____ Page ____ Tab # ____ None ____

B. Rule 3.850 Proceeding Dated: _____

(1) Petitioner's Rule 3.850 Motion:

Volume ____ Page ____ Tab # ____ None ____

(2) State's Response:

Volume ____ Page ____ Tab # ____ None ____

(3) Was There an Evidentiary Hearing? Yes ____ No ____

(4) Transcript of the Evidentiary Hearing:

Volume ____ Page ____ Tab # ____ None ____

(5) Court's Dispositive Order/Opinion:

Volume ____ Page ____ Tab # ____ None ____

(6) Petitioner's Direct State Court Appeal of this Rule 3.850 Decision:

A. Petitioner's Brief

Volume ____ Page ____ Tab # ____ None ____

B. State's Brief:

Volume ____ Page ____ Tab # ____ None ____

C. Was there an evidentiary hearing?

Yes _____ No _____

D. Transcript of Evidentiary Hearing:

Volume _____ Page _____ Tab # _____ None _____

E. Court's Dispositive Order/Opinion:

Volume _____ Page _____ Tab # _____ None _____

C. Rule 3.850 Proceeding Dated: _____

(1) Petitioner's Rule 3.850 Motion:

Volume _____ Page _____ Tab # _____ None _____

(2) State's Response:

Volume _____ Page _____ Tab # _____ None _____

(3) Was There an Evidentiary Hearing? Yes _____ No _____

(4) Transcript of Evidentiary Hearing:

Volume _____ Page _____ Tab # _____ None _____

(5) Court's Dispositive Order/Opinion:

Volume _____ Page _____ Tab # _____ None _____

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A. District Court Case Number: _____

(1) Name of the District Court: _____

(2) Relief Granted (if any): _____

(3) Is the Record of this Proceeding to be Included in this Proceeding? Yes _____ No _____ Tab # _____

(4) If Appealed, Court of Appeals Case Number: _____

(5) Court of Appeals Citation: _____

(6) Court of Appeals Disposition _____
Tab # _____

B. District Court Case Number: _____

(1) Name of the District Court: _____

(2) Relief Granted (if any): _____

(3) Is the Record of this Proceeding to be Included in this Proceeding? Yes _____ No _____ Tab # _____

(4) If Appealed, Court of Appeals Case Number: _____

(5) Court of Appeals Citation: _____

(6) Court of Appeals Disposition: _____
Tab # _____

C. District Court Case Number: _____

(1) Name of the District Court: _____

(2) Relief Granted (if any): _____

(3) Is the Record of this Proceeding to be Included in this Proceeding? Yes _____ No _____ Tab # _____

(4) If Appealed, Court of Appeals Case Number: _____

(5) Court of Appeals Citation: _____

(6) Court of Appeals Disposition: _____
Tab # _____

Prepared By:

Date Prepared:
