



**FDRAG address**  
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**Jacksonville, FL 32210**

**Newsletter November, 2015**

Please share this newsletter with others who did not receive one because, for now, we are not able to cover every one of you. Do send us your ideas & suggestions for the next newsletter. We love hearing from you! Our next newsletter will be due around February 2016

### ***Legal Update***

Shortly after the last FDRAG newsletter went to print (June, 2015) The Supreme Court issued several decisions indicative of a growing support for abolishing the death penalty on constitutional grounds. It is noted that there are nine justices on the Supreme Court, but only five votes are necessary to win (or lose). In the landmark case of *Furman v Georgia* in which the Supreme Court declared the death penalty unconstitutional in 1972, it was by a 5 justice plurality decision in which the justices agreed that the death penalty was 'cruel and unusual' for several reasons.

For the first time since *Furman* it appears that a narrow majority of the Supreme Court is receptive to putting an end to this failed experiment. In *Glossip v Gross*, 13 S.Ct 2726 (2015) four justices found that Oklahomas's (and Florida's) use of the drug Midazolam in the execution process violates the prohibition against cruel and unusual punishment due to its established record of failing to adequately render the prisoner unconscious.

Notably, in *Glossip* these justices declared that "if all available means of conducting an execution constitute cruel and unusual punishment then conducting the execution (by any means) will constitute cruel and unusual punishment. Nothing compels a state to perform an execution."

Writing separately, Justices Breyer and Ginsburg stated plainly that the time has come to revisit whether the death penalty remains constitutional under any circumstances. See, *Glossip supra*. In this content, Justices Breyer and Ginsburg addressed numerous factors that offended the contemporary values demanded by the Constitution, including the continued arbitrary application of the death penalty, and the prolonged solitary confinement of death sentenced prisoners while awaiting the uncertainty of their fate.

In a separate case, Justice Kennedy unexpectedly expressed his own opinion that the long term solitary confinement of death sentenced prisoners raises significant constitutional concerns. *Davis v Ayala*, 135 S.Ct., at 2208-10. This means that at least three of the Supreme Court justices (Kennedy, Breyer and Ginsburg) are deeply troubled by the length of time condemned prisoners must spend in solitary confinement awaiting the uncertainty of their fate.

The reason this is significant is because at least 2 Federal district courts in California have already declared the California death penalty unconstitutional on these same grounds. Those cases are now pending before the Ninth Circuit Court of Appeals and are expected to be presented to the Supreme Court within this next term in 2016.

In light of *Davis and Glossip*, several lawyers have already initiated the process challenging Florida's long term solitary confinement of death sentenced prisoners by filing an "All Writs" petition in the Florida Supreme Court on behalf of their clients. This petition is docketed in the Florida Supreme Court as *Morrison v Bondi*, Case No. SC15.

With a growing social and political opposition to the death penalty these recent cases hold great significance and may prove to be the foundation for finally abolishing the death penalty altogether - hopefully in the near future. It is noted that in October the Supreme Court heard arguments in *Hurst v Florida*, which challenges Florida's own death penalty process. With at least five justices now expressing reservations as to the continued constitutional validity of the death penalty. *Hurst* could prove especially important in this slow path towards abolition.

On an unrelated note, earlier this year in a previous FDRAG newsletter, it was noted that although the ACDPA significantly limits Federal review of constitutional claims, congress did not abolish the Supreme Courts independent jurisdiction to entertain "original" habeas corpus petitions.

This appears to have caused some confusion. In the interest of clarification, before attempting to file an "original" habeas petition in the Supreme Court, it is imperative that the litigant fully review *Felker v Turpin*, 518 US 651 (1996) as well as Rule 20.4 (of the Supreme Court rules) and 28 U.S.C. 2241 and 2242, which explains the requirements a petitioner must meet in order to invoke the Supreme Courts "original habeas" jurisdiction.

Finally, in *Hodgkins v State*, the Florida Supreme Court judicially exonerated and ordered the release of death row prisoner Derral Wayne Hodgkins upon finding that the circumstantial evidence used to convict and condemn him was legally insufficient. Additionally Humberto Delgado's death sentence was reduced to life, and the Florida Supreme Court ordered a new sentencing for Miguel Oyola for the third time due to procedural deficiencies, and circuit court judge Henry Davis vacated Raymond Morrison's conviction and sentence due to ineffective representation; the state attorney has stated that they will appeal this ruling to the Florida Supreme Court.

## ***Medical Update***

**Corizon - Medical Issues** – We continue to contact Corizon on your behalf for any health issues you may have. If you want FDRAG to contact Corizon for you it is necessary that you sign a medical release form (DC4-711B Consent and Authorization for Use and Disclosure Inspection and Release of Confidential Information (HIPAA Form) giving medical permission to discuss your care. Without that, Corizon will not give us any information concerning your health issues. You can write a DC6-236 Inmate Request to Medical Records asking to be called out to sign a release of information form. You can sign the form to Geesje de Jong and Karin Elsea . Corizon will only discuss medical issues on the telephone (not by email), so we don't have copies of emails available for you about your care.

**Medical Neglect Letter** - Karin Elsea has compiled and sent a new medical neglect letter to Secretary Julie L. Jones, Dr. Olugbenga Ogunsanwo Assistant Secretary, Medical and Health Services, Mr. Ricky Dixon, Deputy Secretary Institutions and the wardens of FSP and UCI. Warden Palmer replied that Karin's letter will be forwarded to the Health Services Administrator (S. Alvarez) and Chief Health Officer (Dr. Vivas) for review and follow up to ensure the continuity and quality of care provided to those entrusted to their care is in accordance with acceptable standards and that a report of her allegations/ concerns will be documented and forwarded to the office of the inspector general for review. Warden Andrews replied that she has forwarded her concerns to our institutional medical team and has requested an advisement to the Warden's Office upon completion of the review. Ms. Andrews also stated, that "To reiterate Warden Palmer, we take the care of those in our charge very serious; to include their medical treatment. Mr. Dixon, replied that he "will ensure these issues are reviewed by our CHO. Secretary Jones replied that, "medical is reviewing all the inmate files.

## *Of Information*

**Telephone Use for Death Row** – FDRAG has contacted the Secretary's office again to inquire about the progress of telephone use for death row. This is the reply we received: “The rule change allowing inmates on death row access to social phone calls is in process and on track. Hopefully it will be finalized in the next 30-60 days”

**Family Visitation Providers**" provides private and group transportation services to incarcerated family and loved ones throughout Florida. For questions or information: email: [info@familyvisitationproviders.com](mailto:info@familyvisitationproviders.com)  
Phone: (305) 928-0363 Their website is <http://www.familyvisitationproviders.com/> FDRAG has no experience with this organization, we are just passing on this information to you.

**Correspondence** – Requests for assistance in finding someone to correspond with must be send **only** to the FDRAG address on top of the newsletter. Diane Thornton will not be available for this anymore. Please include some details about yourself. We comply with Title 33 of the Florida Administrative Code and do not place inmate ads soliciting pen pals or market advertising services.

## *Cards*

Greeting cards can be requested from Gina Quick, **New Address: 710 Kestner Road, Atlantic Beach, FL 32233** . In order to receive cards, you will need to include 4 stamps in your request to cover the cost of sending the cards to you. Message from Gina: “There may be some delay as I have just moved house and have some issues that need my attention. So, if you sent a request, I'm getting to it, please be patient. Love and many blessings to all of you, Gina “The Card Lady”

Christmas cards can be requested from either Gina Quick or from the FDRAG address listed on top of the newsletter.

***FDRAG sends warmest Christmas wishes and blessings for the New Year to all of you. Peace & Hope, stay safe & healthy, from all of us at FDRAG***

## *In Memoriam*

Remembering those we have lost on the row since July. May they now R.I.P. Our thoughts and prayers are with all their families, friends, pen-friends, and friends they have left behind on the row.

Lloyd Allen 25/10/1845 – 07/29/2015      Clarence Jones 03/09/1955 - 10/27/2015

**FDRAG (The Florida Death Row Advocacy Group ) is dedicated to working to improve the living conditions on death row in Florida and we are here to try to help you with your concerns, complaints, issues etc. For those who would like help from FDRAG, we do ask that you contact us directly at the address on top of the newsletter.**

**Website:** [www.fdrag.kk5.org](http://www.fdrag.kk5.org) Email: [fdragflorida@yahoo.com](mailto:fdragflorida@yahoo.com)

**Geesje de Jong** - FDRAG Director - Maleme 17- 15237 Filothei - Athens, Greece

**Janneke van Steenberg** - FDRAG Assistant Director - Maasdijk 1c W/S LEBA - 5317 KP Nederhemert – The Netherlands

**Karin Elsea** - Paralegal, General legal questions and Medical issues - Chemin de Beau Val 18 1012 Lausanne – Switzerland



*Angel Tree Gift Form*

***The idea is to help you buy a gift for a child: the gift will be mailed in time for the holidays with a card bearing your message.***

Your name: .....

Name of the child: .....

Message on the card: .....

.....

(or include your message on a piece of paper)

Desired gift (give us 3 ideas):

**Please keep your desired gifts under approximately \$20.**

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Age of the child: .....

Boy or girl: .....

Your connection to the child: .....

Address of the child: .....

.....

Please return the form to:

FDRAG

c/o Ms. Britta Slopianka

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