

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

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August 04, 2016

**MEMORANDUM TO COUNSEL OR PARTIES**

Appeal Number: 12-12653-U

Case Style: Ace Patterson v. Secretary, Florida Department

District Court Docket No: 4:11-cv-00010-RH-CAS

**This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.**

For the purpose of the upcoming en banc rehearing in the above referenced case, the court desires for counsel to focus on their briefs the following issues:

1. Did the state trial court's order, Fla. R. Crim. P. 3.800, that Patterson "shall not have to undergo [chemical castration] as previously ordered by the Court at his sentencing" constitute a new "judgment authorizing [Patterson's] confinement," Magwood v. Patterson, 561 U.S. 320, 332 (2010) (emphasis omitted) (quoting Wilkinson v. Dotson, 544 U.S. 74, 83 (2005))?

2. Should Insignares v. Secretary, 755 F.3d 1273 (11th Cir. 2014), and Ferreira v. Sec'y, Dep't of Corr., 494 F.3d 1286 (11th Cir. 2007), be overruled insofar as either of them allows a non-detrimental change in a prisoner's sentence to constitute a new judgment under Magwood, or allows a prisoner who obtains a non-detrimental change in his sentence to also challenge his original, undisturbed conviction as though the conviction had occurred at the date of the change in the sentence?

Eleventh Circuit Rule 31-1 requires that APPELLANT'S EN BANC BRIEF BE SERVED AND FILED ELECTRONICALLY ON OR BEFORE THURSDAY, SEPTEMBER 1, 2016 BY 5:00 P.M. APPELLEE'S EN BANC BRIEF SHALL BE SERVED AND FILED ELECTRONICALLY ON OR BEFORE THURSDAY, SEPTEMBER 29, 2016; APPELLANT'S REPLY BRIEF IS DUE TO BE SERVED AND FILE ELECTRONICALLY ON THURSDAY, OCTOBER 13, 2016. NO EXTENSIONS WILL BE GRANTED. 20 copies of the en banc briefs should be filed (appellants in blue covers, appellees in red covers and any reply briefs in gray covers). The parties are expected to insure that all other parties receive a copy of their briefs before the close of business on the day of filing. **NO TIME FOR**

**MAILING SHALL BE ALLOWED.** The filing of an en banc amicus brief is governed by 11<sup>th</sup> Cir. R.35-8.

**All counsel are requested to submit 20 copies of their original panel briefs, appendix and supplemental authorities prior to 5:00 p.m. September 1, 2016.**

Oral argument will be conducted the week of October 24, 2016 in Atlanta, Georgia. Each party will be allotted 25 minutes of oral argument.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jenifer L. Tubbs

Phone #: 404-335-6166 or 404-335-6131

BR-1CIV Civil appeal briefing ntc issued