

IN THE DISTRICT COURT OF FRANKLIN COUNTY, KANSAS
FOURTH JUDICIAL DISTRICT

STATE OF KANSAS,)
Plaintiff,)
v.)
KYLE TREVOR FLACK,)
Defendant.)

Case No. 13 CR 104

**MOTION TO ALLOW VOIR DIRE
REGARDING THE COST-EFFECTIVENESS OF THE DEATH PENALTY**

COMES NOW, Kyle Flack, the defendant and moves this Court to permit him to ask questions during voir dire which elicit the juror's views regarding the costs of execution as compared to a sentence of life imprisonment. In support of this motion Mr. Flack states:

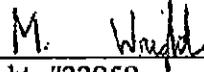
1. The Defendant risks being executed based on the common misunderstanding that it is more economical to execute him than house him in prison for the rest of his life. To the contrary, reliable evidence shows that a death sentence is at least six times as expensive as a life sentence. Mr. Flack's counsel should be permitted to query the potential jurors regarding this topic to avoid a death sentence influenced by this misconception.

2. A juror operating under the demonstrably false notion that death is cheaper than life cannot make a reliable determination of whether the defendant should live or die. *See, e.g., Johnson v. Mississippi*, 486 U.S. 578 (1988). The belief that execution is more economical than life imprisonment is a potentially fatal error must be addressed; otherwise, Mr. Flack may be sentenced to death (in violation of his constitutional rights) on the basis of incorrect information that he "had no opportunity to deny or explain." *Gardner v. Florida*, 430 U.S. 349,

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362 (1977). Proper voir dire on the subject should suffice to correct any juror misunderstandings about the relative costs of a death sentence and life imprisonment. Denial of this request would violate Mr. Black's rights under the V, VI, VIII, and XIV amendments of the U.S. Constitution and sections 9, 10 and 18 of the Kansas Bill of Rights.

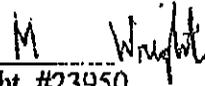
Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I delivered a true and correct copy of the foregoing motion to: the Clerk of the District Court; the Franklin County Attorney's Office, via FAX at (785) 229-8971; the Office of the Attorney General, via FAX at (785) 291-3875; and the Honorable Eric Godderz, Judge of the District Court, via FAX at (785) 448-3230 on this 14th day of December, 2015.



Maban Wright, #23950
Assistant Public Defender