**STATE OF ILLINOIS**

 **IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT**

 **COUNTY OF DU PAGE**

PEOPLE OF THE STATE OF ILLINOIS )

 PLAINTIFF, )

 )

 ) CRIMINAL

 VS ) No. 05 CF 3216

 )

 )

ERIC HANSON )

 DEFENDANT. )

 **DEFENDANT'S MOTION TO ALLOW BOTH CO-COUNSEL TO**

 **ARGUE CLOSING ARGUMENTS SHOULD THE CASE**

 **PROCEED TO STAGE THREE OF DEATH PENALTY PROCEEDINGS.**

 NOW COMES the Defendant, ERIC HANSON, by his attorney, Robert A. Miller, Public Defender, and prays that this Court to allow both counsel to deliver closing arguments to the jury should this matter proceed to stage three of death penalty proceedings, and in support thereof states as follows:

1. That the Defendant is charged with first Degree Murder.

2. That the State has filed its intention to seek the death penalty.

3. That the Defendant has plead Not Guilty, and still adheres to that plea.

4. That despite the Defendant's belief that he will be found Not Guilty, at the first phase of the trial (commonly referred to as the guilt/innocence phase) the Defendant asks that co-counsel be allowed to bifurcate its closing argument should this matter proceed to phase three of the proceedings.

5. The Defendant is not requesting additional time for arguments, nor a rebuttal opportunity.

6. The defendant specifically requests leave to allow attorney Elizabeth Reed to deliver a portion of the defense's phase three closing argument, which would then be immediately concluded by Robert Miller's final portion of the argument.

 7. That the court in J.L. Simmons Co., Inc. for Use and Benefit of Hartford Ins. Group v. Firestone Tire & Rubber Co.,126 Ill.App.3d 859, 467 N.E.2d 327, 81 Ill.Dec. 627, Ill.App. 3 Dist., July 25, 1984, held that "the court has discretion to control the order of argument and proof and further that the judge had discretion to split opening and closing statements between co-counsel if he felt it was in the best interest of the parties.

 8.That in the case at bar**,** co-counsel will be dividing the duties of defense based upon guilt/innocence and mitigation.

 9. That the arguments at phase three of the trial, should the matter proceed that far, will center on the appropriateness of the death penalty.

 10. That appropriateness of the death penalty will necessarily involve the evidence introduced at the guilt/innocence phase of the trial, couple with the mitigating factors.

 11. That the defendant would be prejudiced if both attorneys who specialized in those two distinct categories were not both able to argue to the jury at phase three.

 12. That by the conclusion of phase three, the State will have had the opportunity to deliver six arguments to the jury (two for each phase).

 13. Death is the most serious and severe penalty that can be imposed, and hence, at the defendant's request, it is in the best interest of the parties that the defense counsel be permitted to split the single opportunity to argue to the jury in phase three.

 14. That it is equitable and in the interest of Due Process that the defense counsel be permitted to split the single opportunity to argue to the jury in phase three.

WHEREFORE, the Defendant prays that this Court allow both counsel to deliver closing arguments to the jury should this matter proceed to stage three of death penalty proceedings

 ERIC HANSON, Defendant

 By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Robert A. Miller, His Attorney

 Public Defender

Robert A. Miller #100121

OFFICE OF THE PUBLIC DEFENDER

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