



IN THE CIRCUIT COURT OF MARSHALL COUNTY, ALABAMA

STATE OF ALABAMA,

PLAINTIFF,

VS.

CASE NO. CC 2018-000465.00

JIMMY ONEAL SPENCER,

DEFENDANT.

**STATE'S RESPONSE TO DEFENDANT'S MOTION TO PROHIBIT
IMPOSITION OF THE DEATH PENALTY DUE TO DEFENDANT'S
ALLEGED INTELLECTUAL DISABILITY**

Comes now the State of Alabama, by and through the District Attorney of Marshall County, Alabama, and DENIES that Defendant is intellectually disabled for purposes of *Atkins v. Virginia*. Specifically, the State responds as follows:

1. Spencer's culpability is not lessened because he does understand and process information, can communicate, can abstract from mistakes and learn from experience, can engage in logical reasoning, can control impulses, and can understand the reactions of others.
2. The integrity of the trial process would not be diminished by imposing the death penalty because Spencer is not intellectually disabled.
3. Spencer does not meet the definition of an intellectually disabled person under *Atkins* as applied under Alabama law.
4. Defendant does not meet the three criteria mentioned herein and required by *Atkins*.
5. Defendant's IQ was determined to be 80 upon his admission to the Alabama Department of Corrections. Spencer has the ability to feign his responses to questions on the WAIS-IV administered to him on December 10, 2021, thereby making his IQ appear to be lower than it actually is.
6. Defendant does not suffer from any significant or substantial deficits in his adaptive behavior, as was demonstrated by his providing for himself and his girlfriend, having the skill to do automotive body work, his detailed

admission of the crimes, his planning and carrying out of the crimes, and his furtive plans to avoid detection.

7. The best evidence of this claim would be records from his school, which burned down in the late 1980's taking those records up in smoke.
8. Defendant can not claim that the findings of an intellectual disability is consistent when on May 19, 2022, pursuant to this Court's order, the State's expert, Dr. Glenn King, traveled from Montgomery to the Marshall County Jail to interview Spencer and conduct an evaluation of Spencer for the purpose of determining whether or not Spencer has an intellectual disability for purposes of *Atkins*. Spencer refused to cooperate with Dr. King and would not participate in the evaluation. Spencer should therefore be ESTOPPED from claiming an *Atkins* defense to the death penalty in this case for his intentional refusal to cooperate with the State's expert and disobedience of this Court's order to cooperate with Dr. King in the evaluation.
9. Spencer should be limited to using any evidence he has regarding a claim of intellectual disability as a mitigating circumstance in the penalty phase of the trial, and the State should be allowed to rebut such evidence in the penalty phase of the trial.

Respectfully Submitted:

STATE OF ALABAMA, by and through

CLARK E. JOHNSON, III

Marshall County District Attorney

Ed Kellett, Chief Assistant District Attorney

Tim Jolley, Assistant District Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and forgoing Response has been served upon counsel for Defendant, Jimmy Oneal Spencer, by filing the same with the AlaFile electronic filing system.

Tim Jolley