

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 13-130

(Commission to Determine Mental Competency of Inmate)

WHEREAS, counsel for MARSHALL LEE GORE, an inmate under sentence of death and with a pending death warrant, has written a letter to the Governor alleging that MARSHALL LEE GORE may be insane; and

WHEREAS, counsel for MARSHALL LEE GORE filed a notice of potential conflict in the circuit court recounting recent encounters with MARSHALL LEE GORE, including counsel's belief that MARSHALL LEE GORE is "irrational," MARSHALL LEE GORE's distrust of counsel and his belief that counsel is "engaged in a conspiracy to get Mr. Gore killed," and unspecified "statements concerning his upcoming execution and the nature of these proceedings that were irreconcilably irrational"; and

WHEREAS, every court that has considered the mental capacity claims of MARSHALL LEE GORE has rejected those claims, *see Gore v. State*, 24 So. 3d 1 (Fla. 2009); and

WHEREAS, section 922.07, Florida Statutes, requires that "[w]hen the Governor is informed that a person under sentence of death may be insane, the Governor shall stay execution of the sentence and appoint a commission of three psychiatrists to examine the convicted person"; and

WHEREAS, to invoke section 922.07, an inmate must make sufficient allegations of insanity, *see Provenzano v. State*, 751 So.2d 37, 40 (Fla. 1999); and

WHEREAS, the conclusory, unelaborated allegation that MARSHALL LEE GORE has made irrational statements concerning his scheduled execution is an insufficient assertion of insanity under section 922.07; and

WHEREAS, because the Governor's solemn duty to execute a duly imposed sentence of death requires the exercise of utmost caution, I will nonetheless implement the requirements of section 922.07.

NOW, THEREFORE, I, RICK SCOTT, Governor of Florida, by virtue of the authority vested in me by the Constitution and laws of the State of Florida, direct as follows:

A. The following psychiatrists are hereby appointed as a Commission to examine the mental condition of MARSHALL LEE GORE, pursuant to section 922.07, Florida Statutes:

1. Dr. Wade Myers
2. Dr. Alan Waldman
3. Dr. Tonia Werner

B. The above-named psychiatrists constitute the "Commission to Determine the Mental Competency of Marshall Lee Gore." The Commission shall examine MARSHALL LEE GORE to determine whether he understands the nature and effect of the death penalty and why it is to be imposed upon him. The examination shall take place with all three psychiatrists present at the same time. Counsel for MARSHALL LEE GORE and counsel for the State, and any necessary correctional personnel, may be present at the examination. Counsel may not participate in the examination.

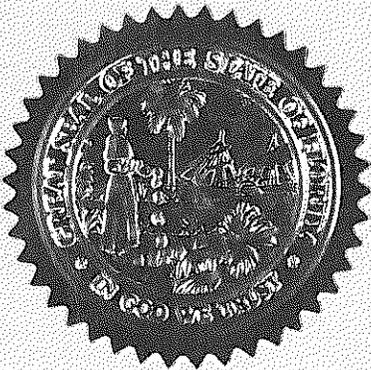
C. The examination shall be conducted on May 28, 2013. Upon completion of the examination, the Commission shall promptly, and by no later than close of business May 29, 2013, report its findings to my office.

D. The expenses incurred by the Commission for this examination and report shall be paid by the Department of Corrections.

E. The execution of sentence imposed upon MARSHALL LEE GORE, scheduled for June 24, 2013 at 6:00 p.m., is hereby temporarily stayed pending receipt of the Commission's report. In the event that, after receiving the report, I decide that MARSHALL LEE GORE has "the mental capacity

to understand the nature of the death penalty and why it was imposed on him,” the execution of sentence imposed upon MARSHALL LEE GORE will occur on June 24, 2013 at 6:00 p.m. In the event that, after receiving the Commission’s report, I decide that MARSHALL LEE GORE does not have “the mental capacity to understand the nature of the death penalty and why it was imposed on him,” MARSHALL LEE GORE will be committed to a Department of Corrections mental health treatment facility until such time as he has been restored to sanity and the sentence of death may be executed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 22nd day of May, 2013.




RICK SCOTT, GOVERNOR

ATTEST:


SECRETARY OF STATE

FILED
2013 MAY 22 PM 5:05
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA