

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RICHARD FLOWERS,)
ADOC # 0000Z632,)

Petitioner,)

v.)

CASE NO. 2:10-CV-579-WKW
[WO]

JEFFERSON S. DUNN,)
Commissioner, Alabama Department)
of Corrections,)

Respondent.)

ORDER VACATING SENTENCE

By Memorandum Opinion and Order of January 13, 2021, this court found that Petitioner, Richard Flowers, was “entitled to a new penalty phase trial,” granted Mr. Flowers a writ of habeas corpus to that extent, and directed the parties to confer regarding the possibility of reaching “an agreement as to the resolution of all issues in this action” (Doc. # 72 at 64.) In accordance with this order, the parties conferred, advised the court that they have reached an agreement to settle this matter, and agreed that this case should be remanded to the Circuit Court of Montgomery County, Alabama, for the purpose of resentencing at which the parties will request that Mr. Flowers be resentenced to life without the possibility of parole. (Doc. # 76.)

Pursuant to the parties’ Joint Stipulation (Doc. # 76), Mr. Flowers has agreed to waive his right to a jury for the sentencing hearing conditioned upon the

Montgomery County Circuit Court accepting the State's motion to sentence him to life without the possibility of parole ("LWOP"). If resentenced to LWOP, Mr. Flowers has agreed to waive further appeals or collateral challenges to his conviction and sentence in CC-97-20. The parties stipulate that the habeas case, including all pending claims, should be dismissed if a sentence of LWOP is imposed. The parties further stipulate that Mr. Flowers will not appeal this court's ruling denying him relief on his claim of ineffective assistance of counsel during the guilt phase of his trial and that Respondent will not appeal this court's ruling granting a new sentencing hearing to Mr. Flowers.

In accordance with the parties' Joint Stipulation (Doc. # 76), it is ORDERED that:

1. Petitioner Richard Flowers's original death sentence imposed by the Circuit Court of Montgomery County, Alabama, on March 9, 1998, is VACATED pursuant to 28 U.S.C. § 2254.

2. This case is REMANDED to the Circuit Court of Montgomery County, Alabama, for the purpose of conducting a new sentencing hearing before that court in accordance with Alabama law.

3. Within fourteen (14) days of the entry of this order, Respondent's counsel for the State shall file a notice with the Montgomery County Circuit Court in *State v. Flowers*, CC-97-20, affirmatively stating that the State is no longer

seeking a death sentence and that it will be moving the court to resentence Mr. Flowers to LWOP for the murder of Annie Addy.

4. This federal habeas action is STAYED pending Mr. Flowers's resentencing hearing in the Montgomery County Circuit Court in *State v. Flowers*, CC-97-20.

5. The parties shall file a Notice in this action within seven (7) days of Mr. Flowers's resentencing and, if appropriate, shall move for dismissal of the remaining claims in this action.

DONE this 18th day of May, 2021.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE