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IN THE SUPREME COURT OF FLORIDA

DARRYL LEWIS DAVIS,

Petitioner, CASE NO.: SC16-1738

vs.

STATE OF FLORIDA, L.T. Case No.: 5D15-2507

Respondent.

_____/

MOTION TO ACCEPT INITIAL BRIEF AS TIMELY FILED

Petitioner, DARRYL LEWIS DAVIS, pursuant to Florida Rule of Appellate Procedure 9.300, hereby requests this Court accept Petitioner's Initial Brief as Timely filed. As grounds for this motion, Petitioner submits the following:

1. On March 20, 2017, undersigned counsel volunteered and was appointed to represent Petitioner *pro bono*.

2. Petitioner's initial brief was originally due on April 10, 2017.

3. Undersigned counsel requested a thirty day extension to file his initial brief because he received orders to attend five weeks of training as an Air Force Judge Advocate General Reservist at Maxwell Air Force Base in Montgomery, Alabama from March 27 through April 28.

4. This Court granted undersigned counsel's request for an extension with a due date for the initial brief on or before May 10, 2017.

5. Upon receiving the order granting the extension, undersigned counsel mis-calendared the due date for May 11, 2017.

6. Undersigned counsel filed Petitioner's Initial Brief on May 11, 2017.

7. On May 12, 2017, undersigned counsel received an email from Tazara Weilhammer-Oliff, Deputy Clerk II, Florida Supreme Court Clerk's Office, notifying him of the late filing.

8. Undersigned counsel spoke with opposing counsel, Wesley Heidt, Office of the Florida Attorney General, regarding this late filing to determine his position on the matter.

9. Undersigned counsel is authorized to state that Mr. Heidt has no objection to the Court accepting Petitioner's initial brief as timely.

10. This motion is made in good faith and not for the purpose of unnecessary delay.

WHEREFORE, Petitioner, DARRYL LEWIS DAVIS, respectfully requests that this Court grant his motion accepting his Initial Brief as timely filed.

Respectfully submitted,

/s/ Rocco J. Carbone, III
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished, via electronic mail on this 12th day of May 2017.

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Tallahassee, Florida

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