

IN THE SUPREME COURT OF FLORIDA

RANDALL DEVINEY, :

Appellant, :

v. : **CASE NO.: SC17-2231**

STATE OF FLORIDA, :

Appellee. :

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MOTION FOR EXTENSION OF TIME FOR FILING REPLY BRIEF

Appellant, RANDALL DEVINEY, moves this Court for an order extending the time for filing the Reply Brief in this case, and as grounds, states:

1. Appellant's Reply Brief is currently due for filing on October 15, 2018. No extensions of time have previously been sought in the present case.

2. On June 26, 2018, Appellant filed his Initial Brief. In that brief, Appellant raised six issues, including issues related to (I) the denial of cause challenges; and (II) the failure to instruct the jury to determine beyond a reasonable doubt whether the aggravating factors were sufficient and outweighed the mitigating circumstances.

3. On September 4, 2018, the State filed its Answer Brief. In that brief, the State responded to Appellant's arguments, including by asserting that this Court should recede from certain precedent related to Issue I.

4. The arguments advanced by both parties—particularly, as to Issues I and

II—are complex. With that in mind, as of October 8, 2018, undersigned counsel had completed approximately half of Appellant’s Reply Brief.

5. Further, since October 8, 2018, undersigned counsel has been occupied by preparing for, and recovering from, Hurricane Michael. As a result, during that time, undersigned counsel has been unable to work on Appellant’s Reply Brief.

6. Finally, undersigned counsel has been without power since October 10, 2018, and also has to deal with removing a tree from, and repairing, the roof of his home. As a result, undersigned counsel anticipates having to be out of the office occasionally over the next days.

7. All that being the case, undersigned counsel needs additional time to draft an effective Reply Brief.

8. This motion is made in good faith and not for the purpose of unnecessary delay. Instead, to employ the requisite knowledge and skill in this complex and specialized matter, undersigned counsel needs to give the matter additional preparation and study. Consequently, an extension of time is essential to the competent representation of Appellant in this case. *See* Rule 4-1.1, Rules Regulating Florida Bar (2018).

9. Assistant Attorney General, Jennifer L. Keegan, has been contacted, and she has indicated that the State does not object to this motion.

WHEREFORE, Appellant requests an extension of 15 days, to and including October 30, 2018, within which to file the Reply Brief in this cause.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished electronically via the Florida Courts E-filing portal to Jennifer L. Keegan, Assistant Attorney General, Capital Appeals Division, The Capitol, PL-01, Tallahassee, FL, 32399-1050, on this 15th day of October, 2018.

Respectfully submitted,

ANDY THOMAS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

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