

IN THE SUPREME COURT OF FLORIDA

DELMER SMITH,

Appellant,

v.

STATE OF FLORIDA

Appellee.

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CASE NO: SC18-42

LOWER COURT CASE: 2010-CF-0479

DEATH PENALTY CASE

NOTICE OF UNAVAILABILITY

COMES NOW, the State of Florida, by and through the undersigned Assistant Attorney General, and thereby notifies the Court of undersigned counsel's unavailability for oral argument as follows:

1. The oral argument was originally scheduled in this case for May 8, 2019.

2. Prior to the oral argument, the case was relinquished to the circuit court for an evidentiary hearing.

3. After conclusion of the relinquishment proceedings, this Court entered a scheduling order for supplemental briefing.

4. As of the time of this filing, Appellant has filed his Supplemental Initial Brief, Appellee has filed its Supplemental Answer Brief, and Appellant's Supplemental Reply Brief is due to be filed by August 15, 2019.

5. After the Supplemental Reply Brief is filed, Appellee anticipates that this case will be scheduled for oral argument.

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6. Undersigned counsel is currently pregnant with an approximate due date of January 8, 2020. Therefore, undersigned counsel will be unable to travel to Tallahassee for an oral argument in early January. Additionally, undersigned counsel will be on maternity leave in February and March and will be unable to appear for oral argument during that timeframe. Accordingly, undersigned counsel will be unavailable for oral argument in January, February, and March of 2020.

7. If possible, it would be undersigned counsel's preference for the oral argument to be scheduled prior to January 2020. If that is not possible, undersigned counsel respectfully requests that argument not be scheduled in January, February, or March of 2020.

8. Undersigned counsel discussed the contents of this notice with Appellant's attorney, Mr. Eric Pinkard, and he had no objection to this notice of unavailability.

Wherefore, the State of Florida hereby notifies the Court of undersigned counsel's unavailability for oral argument in January, February, and March of 2020.

Respectfully submitted,

ASHLEY MOODY  
ATTORNEY GENERAL

/s/ Christina Z. Pacheco  
CHRISTINA Z. PACHECO

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COUNSEL FOR THE STATE OF FLORIDA

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13th day of August 2019, I electronically filed the foregoing with the Clerk of Court by using the Florida Courts E-Portal Filing System which will send a notice of electronic filing to the following: Eric C. Pinkard and Rachel Paige Roebuck, CCRC, Law Office of the Capital Collateral Regional Counsel-Middle Region, 12973 North Telecom Parkway, Temple Terrace, Florida 33637, **pinkard@ccmr.state.fl.us** **roebuck@ccmr.state.fl.us** and **support@ccmr.state.fl.us**.

/s/ Christina Z. Pacheco  
COUNSEL FOR THE STATE OF FLORIDA