

In The Supreme Court of Florida

DONALD JAMES SMITH,

Appellant,

v.

CASE NO. SC18-822

STATE OF FLORIDA,

Appellee.

_____/

STATE'S MOTION TO ISSUE A NEW BRIEFING SCHEDULE

On November 19, 2018, this Court issued a briefing schedule in this capital case. On May 31, 2019, following four extensions of time, original appellate counsel, Rocco J. Carbone III, filed the initial brief. On August 6, 2019, however, original appellate counsel filed a motion to withdraw as appellate counsel due to new employment. On August 9, 2019, the State filed a motion to toll the briefing pending resolution of original appellate counsel's motion to withdraw and the appointment of new appellate counsel, if the motion to withdraw was granted. On August 12, 2019, this Court granted the State's motion to toll. On August 16, 2019, this Court granted the motion to withdraw and remanded the case to the trial court for the appointment of new appellate counsel. On August 30, 2019, new appellate counsel, H. Kate Bedell of Bedell & Kuritz, filed a notice of appearance in this Court.

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Undersigned counsel contacted new appellate counsel regarding this case and was informed that she wished to file a new initial brief raising new issues of her choice and that she would file a motion to that effect with this Court but no such motion has been filed.

This Court should issue an order instructing new appellate counsel to either file a notice of adoption of the original initial brief or to file a motion for permission to file a new initial brief. If new appellate counsel adopts the original initial brief, the State requests 30 days from the date of the notice of adoption, to file its answer brief. If new appellate counsel requests permission to file a new initial brief, this Court should issue a new briefing schedule.

Accordingly, this Court should issue an order regarding the briefing in this case.

Respectfully submitted,

ASHLEY MOODY
ATTORNEY GENERAL OF FLORIDA

/s/ Charmaine Millsaps

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COUNSEL FOR THE STATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing STATE'S MOTION TO ISSUE A NEW BRIEFING SCHEDULE has been furnished by e-portal to H. Kate Bedell of Bedell & Kuritz; 200 East Forsyth Street, Jacksonville, FL 32202; phone (904) 854-1999; email: kate@kuritzlaw.com this 14th day of October, 2019.

/s/ Charmaine Millsaps

Charmaine M. Millsaps
Attorney for the State of Florida