

IN THE SUPREME COURT OF FLORIDA

BENNIE DEMPS,

Appellant,

vs.

CASE NO. : SC 00-1118

STATE OF FLORIDA,

Appellee.

_____/

RESPONSE IN OPPOSITION TO EMERGENCY MOTION
FOR EXTENSION OF TIME TO FILE BRIEF

THE STATE OF FLORIDA, by and through undersigned counsel, hereby files this response in opposition to Demps' Emergency Motion for Extension of Time to Comply with Court's Amended Order Regarding Submission of Appellant's Initial Brief.

Earlier today the State filed an anticipatory response in opposition to any grant of a stay of proceedings that Mr. Salmon might file on behalf of Mr. Demps. The State would incorporate by reference the entirety of that response.

In addition, the State would note:

1. In Mr. Salmon's letter to this Court dated May 24, 2000, Mr. Salmon made no mention of his wife's health as a reason he could not represent Mr. Demps on appeal. Nor has he ever before mentioned his in-laws.

2. Although Mr. Salmon complains about having only a day to

draft an appellate brief in this case, he has been on explicit notice for some time that this Court expected him to file a brief in this case. Furthermore, he has already filed a 17 page post-hearing memorandum in the circuit court supplemented by an additional four page supplemental memorandum. These pleadings are in addition to the 3.850 petition itself plus the amendments thereto, all of which are available to Mr. Salmon. In this case, Mr. Salmon has an advantage over the State in that he has been in possession of the State's appellate brief for this entire week, even though the appellate briefs originally were supposed to have been filed simultaneously. Additionally, Mr. Salmon now has the assistance of co-counsel Mr. Schaefer, who can at the very least help with any necessary legal research and editing of that which has already been prepared by Mr. Salmon.

3. This is not an appeal from a full-blown trial, or even a full-blown evidentiary hearing. It is an appeal from a summary denial of a successive motion for postconviction relief that was filed following some 20 years of uniformly unsuccessful litigation by Mr. Demps - unsuccessful, that is, in every respect except that it has delayed the carrying out his lawful sentence. Mr. Salmon is had familiar with this case and the issues that he himself has chosen to present. Moreover, they are similar to the clemency issues which he has known about and

crafted since 1998. There simply is no need for any further delay in this case.

For the foregoing reasons, Mr. Salmon's emergency motion should be denied.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

CURTIS M. FRENCH
Assistant Attorney General
Florida Bar No. 291692

OFFICE OF THE ATTORNEY GENERAL
The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300 Ext. 4583
FAX: (850) 487-0997

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above has been furnished by U.S. Mail and by facsimile transmission to William Braley Salmon, P.O. Box 1095, Gainesville, FL 32602-1095, to George F. Schaefer, 1005 S.W. 2nd Ave, Gainesville, FL 32601-6116.

CURTIS M. FRENCH
Assistant Attorney General

