

IN THE
SUPREME COURT OF THE UNITED STATES

App. No. _____

FREDDY BROWN,

Applicant,

v.

STATE OF FLORIDA,

Respondent.

*ON APPLICATION FOR EXTENSION OF TIME TO FILE A PETITION
FOR A WRIT OF CERTIORARI TO THE FLORIDA SUPREME COURT*

APPLICATION TO EXTEND TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI

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To the Honorable Clarence Thomas, as Circuit Justice for the Eleventh Circuit Court of Appeals:

Pursuant to 28 U.S.C. § 2101(d) and Rule 13.5 of the Rules of this Court, applicant Freddy Brown respectfully requests an extension of time of 30 days to and including May 3, 2019, in which to file a petition for a writ of certiorari in this Court to review the Florida Supreme Court's decision in this case, which quashed the decision of the Third District Court of Appeal of Florida vacating Mr. Brown's life sentence for a homicide offense committed when he was a juvenile. As grounds in support of this request, the applicant states as follows:

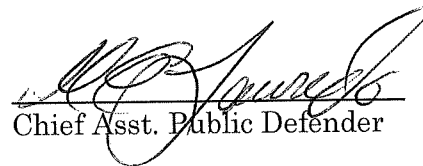
1. The Florida Supreme Court issued its decision in this case on January 3, 2019. See attached.
2. The final date for filing the petition for writ of certiorari is April 3, 2019. The thirtieth day after that date is May 3, 2019.
3. No previous extension of time has been requested.
4. The Office of the Public Defender of the Eleventh Judicial Circuit of Florida represented Mr. Brown on appeal in the state court. Undersigned counsel is an assistant public defender with significant existing obligations, and needs additional time to complete the petition and appendix for filing with this Court.
5. This case presents a potentially meritorious federal constitutional issue that requires careful review in order to prepare a succinct petition: whether the Florida Supreme Court erred in *Franklin v. State*, 258 So. 3d 1239 (Fla. 2018), in holding that this Court in *Virginia v. LeBlanc*, — U.S. —, 137 S.Ct. 1726, 198

L.Ed.2d 186 (2017), expressed a view on the merits of the underlying constitutional claim. The Florida Supreme Court relied on *Franklin* in reversing the Third District Court of Appeal of Florida's decision in Mr. Brown's case.

For the foregoing reasons, it is respectfully requested that this application be granted and that the time for the filing of a petition for writ of certiorari be extended for 30 days to and including May 3, 2019.

Respectfully submitted,

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Counsel for Petitioner

MARCH 22, 2019

Supreme Court of Florida

THURSDAY, JANUARY 3, 2019

CASE NO.: SC17-923

Lower Tribunal No(s).:
3D15-2759; 131980CF019545A000XX

STATE OF FLORIDA

vs. FREDDY BROWN

Petitioner(s)

Respondent(s)

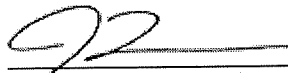
Upon review of the responses to this Court's Order to Show Cause dated December 4, 2018, the Court has determined that it should accept jurisdiction in this case. It is ordered that the Petition for Review is granted, that the Third District Court of Appeal's decision in this case is quashed, and this matter is remanded to the district court for reconsideration upon application of our decision in *Franklin v. State*, 43 Fla. L. Weekly S556 (Fla. Nov. 8, 2018).

No Motion for Rehearing will be entertained by the Court.

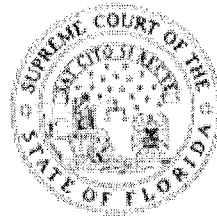
CANADY, C.J., and LEWIS, POLSTON, LABARGA, and LAWSON, JJ., concur.
PARIENTE and QUINCE, JJ., dissent.

A True Copy

Test:




John A. Tomasino
Clerk, Supreme Court



lc

Served:

MICHAEL MERVINE
NIKOLE HICIANO
JONATHAN GREENBERG
HON. MIGUEL MANUEL DE LA O, JUDGE
HON. MARY CAY BLANKS, CLERK
HON. HARVEY RUVIN, CLERK

 KeyCite Red Flag - Severe Negative Treatment
Review Granted, Decision Quashed by State v. Brown, Fla., January 3, 2019

2017 WL 927810

NOTICE: THIS OPINION HAS NOT BEEN
RELEASED FOR PUBLICATION IN THE
PERMANENT LAW REPORTS. UNTIL RELEASED,
IT IS SUBJECT TO REVISION OR WITHDRAWAL.

District Court of Appeal of Florida,
Third District.

Freddy BROWN, Appellant,
v.
The STATE of Florida, Appellee.

No. 3D15-2759

|
Opinion filed March 8, 2017

An Appeal from the Circuit Court for Miami-Dade
County, Miguel M. de la O, Judge. Lower Tribunal No.
80-19545A

Attorneys and Law Firms

Carlos J. Martinez, Public Defender, and Jonathan
Greenberg, Assistant Public Defender, Miami, for
appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and
Nikole Hiciano, Assistant Attorney General, Miami, for
appellee.

Before LAGOA, FERNANDEZ and SCALES, JJ.

Opinion

PER CURIAM.

*1 Appellant Freddy Brown pled guilty to second degree murder for a murder he committed in 1980, when he was seventeen years old. His sentencing hearing did not take into consideration his status as a juvenile offender. Brown was sentenced to life imprisonment with parole. He remains imprisoned due to a record of unsatisfactory institutional conduct.

In 2015, Brown filed a rule 3.850 motion for post-conviction relief pursuant to Miller v. Alabama, 567 U.S. 460, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012), which held that the mandatory sentencing of a juvenile to a term of life in prison without parole violates the Eighth Amendment. The Florida Legislature responded to Miller v. Alabama by enacting sections 921.1401 and 921.1402 of the Florida Statutes, which provide for the review of sentences of juveniles convicted of certain offenses and given a term of life imprisonment. See Atwell v. State, 197 So.3d 1040 (Fla. 2016) (extending Miller v. Alabama's proscription to a Florida juvenile's life sentence with the possibility of parole).

The trial court denied Brown's rule 3.850 motion. We reverse Brown's life sentence and remand for an appropriate resentencing. Miller v. State, 208 So.3d 834 (Fla. 3d DCA 2017).

Reversed and remanded with instructions.

All Citations

--- So.3d ----, 2017 WL 927810 (Mem), 42 Fla. L. Weekly
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