

**APPLICATION FOR EXTENSION
OF TIME REQUEST FOR A
PETITION FOR WRIT OF
CERTIORARI**

No. _____

In The Supreme Court of the United States

Preston L. Drane, Petitioner, v.
Stephania Drane, Respondent.

**APPLICATION FOR EXTENSION OF TIME TO
FILE PETITION FOR WRIT OF CERTIORARI
TO THE FIFTH DISTRICT COURT OF
APPEAL OF FLORIDA**

To the Honorable Clarence Thomas:

Petitioner, Preston L. Drane, respectfully requests an additional thirty days, up to and including June 22, 2022, to file his Petition for Writ of Certiorari. The Fifth District Court of Appeal of Florida issued a per curiam affirmance of an order finding Mr. Drane's permanent military disability benefits constituted marital assets that were subject to equitable distribution. Absent an extension of time, the Petition for Writ of Certiorari would be due by May 23, 2022. Petitioner is filing this Application more than ten days prior to that due date.

A copy of the decision subject to review, along with the trial court decision, is attached. This Court has jurisdiction to review the decision of the Fifth District Court of Appeal under 28 U.S.C. § 1257(a), because the appellate court, the state court of last resort, ruled on Petitioner's claim that his benefits were indivisible under a federal statute, 10 U.S.C. § 1408(a)(4)(A). *See Mansell v. Mansell*, 490 U.S. 581, 583 (1989) (reviewing similar question).

An extension of time is warranted because undersigned counsel was only retained to prepare the petition on May 4, 2022, some twenty days before the deadline to file it. Given these time constraints and the press of other client business, the undersigned anticipates that additional time will be necessary to prepare the Petition for Writ of Certiorari. Accordingly, the undersigned respectfully requests an additional thirty days to prepare the Petition for Writ of Certiorari of behalf of the Petitioner, Preston L. Drane.

Respectfully submitted,

/s/ Andrew B. Greenlee

Andrew B. Greenlee, Esquire

Counsel of Record

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Counsel for Petitioner

May 5, 2022

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

PRESTON L. DRANE,

Appellant,

v.

Case No. 5D21-193
LT Case No. 2017-DR-22905

STEPHANIA DRANE,

Appellee.

_____ /

Decision filed February 22, 2022

Appeal from the Circuit Court
for Brevard County,
Charles J. Roberts, Judge.

Andrew B. Greenlee, of Andrew B.
Greenlee, P.A., Sanford, for Appellant.

John N. Bogdanoff, of The Carlyle
Appellate Law Firm, Orlando, for Appellee.

PER CURIAM.

AFFIRMED.

LAMBERT, C.J., WALLIS and EISNAUGLE, JJ., concur.

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

IN RE: THE MARRIAGE OF

CASE NO. 05-2017-DR-022905-XXXX-XX

PRESTON DRANE,
Petitioner,
and

STEPHANIA DRANE,
Respondent.

SUPPLEMENTAL FINAL JUDGMENT OF DISSOLUTION OF MARRIAGE

1. This Court entered a Final Judgment of Dissolution of Marriage on February 21, 2020, that reserved on the valuation and distribution of each party's retirement.
2. The Court held a hearing on all issues related to the parties' respective retirement pay and pensions on November 24, 2020. Present before the Court, *via Microsoft Teams*, at this hearing was the Former Wife and her attorney Maria Henderson and the Former Husband and his attorney, Jane Carey.
3. At this hearing, the Court heard testimony from both parties. The Court also heard testimony from the Former Wife's expert, Timothy Voit. Although the Former Husband testified as a fact witness, the Court allowed him to offer an opinion as the Court found he had unique experience in the area of military retirement pay. The Court also finds that a witness can offer an opinion as to the value of his or her own property.
4. After hearing testimony of all the witnesses, reviewing all the evidence introduced at the hearing, hearing the oral argument of the Former Wife's counsel and reviewing the written argument of the Former Husband's counsel, the Court accepts the opinion of the Former Wife's expert, Timonthy Voit, in regards to both parties' retirement pay.

PD

SD

5. As for the Former Husband's retirement pay, the Court finds that it is retirement pay and that the portion accrued during the marriage is subject to equitable distribution.
6. The Former Husband has 23 years of military service. The parties were married for 9.22 years of the time in which the Former Husband was in the military. Having accrued over 20 years of full-time active military service, the Former Husband accrued sufficient years to retire with full, unreduced benefits.
7. The Former Husband's plan has a cost-of-living-adjustment (COLA) indexed to the Consumer Price Index (CPI). The Former Wife shall be entitled to one-half of the marital portion of the Former Husband's retirement pay, along with any cost-of-living-adjustments (COLA).
8. The Former Wife may have a Military Order prepared to obtain her portion of the Former Husband's retirement pay. The Former Wife shall bear the initial cost of this. If DFAS accepts the Order, the Former Husband shall reimburse one half of the cost of the preparation of the Military Order to the Former Wife within 14 (14) days of DFAS accepting the Order. If DFAS does not accept the Military Order, the Former Husband does not have to reimburse the preparation cost, but shall continue to pay the Former Wife directly.
9. The Former Husband is currently receiving \$2,185.00, of which the Former Wife's portion is \$437.95. Absent a Military Order, the Former Husband shall pay this amount directly to the Former Wife. The after-tax amount that the Former Husband shall pay directly to the Former Wife is \$415.82 per month. The Former Husband shall remit payment to the Former Wife within 48 hours of receiving the payment. This payment shall commence upon the Former Husband receiving his next payment and shall continue each and every month thereafter. The Former Husband shall include the Former Wife's share of any COLA increase that is received in the future.
10. The Court finds that the Former Husband has been receiving the entire retirement pay since the filing of this case on April 10, 2017. The Former Husband owes


forty-four (44) months of retroactive payments to the Former Wife in the total amount of \$19,269.80. Commencing with his next payment, the Former Husband shall repay this amount at the rate of \$200.00 per month, continuing each and every month thereafter until paid in full. Once the Former Husband's child support obligation terminates, the Former Husband shall continue to make payments to the Former Wife in the amount of \$315.75, which shall be applied to the retroactive amount due, in addition to the \$200.00.

11. The Former Husband shall name the Former Wife as the beneficiary of this plan and shall cooperate in electing Survivor Benefits on behalf of the Former Wife.
12. The Court finds that the Former Wife has a pension through the Federal government. The Former Wife was in the military from 1996 to 2008. Upon leaving the military, the Former Wife did not have any retirement. The Former Wife gained employment with the Federal government in 2010. The Former wife "bought-back" or purchased military time after the filing of dissolution and using non-marital funds. The Court finds that the years purchased following the filing of this case with non-marital funds to be non-marital.
13. The marital portion of the Former Wife's pension is 7.23 years.
14. The Former Husband shall be entitled to \$130.15 per month of the Former Wife's pension upon her retirement and drawing of the pension. The Former Husband shall be entitled to cost-of-living-adjustments (COLA) on his share of the pension, if any are received. The Former Wife shall notify the Former Husband thirty (30) days prior to her planned retirement. If the Former Husband is paying the Former Wife directly at that time, he shall be entitled to offset his share of the Former Wife's pension from the amount of the Former Wife's share of his retirement pay that he is paying. If the Former Wife's share of the former Husband's retirement pay is being paid by military order, the parties shall submit an Amended Military Order or in the alternative, the former Wife shall remit the Former Husband's share directly to the Former Husband.
15. The Court retains jurisdiction over the parties and subject matter for all lawful

purposes.

16. All previous Orders not modified herein remain in full force and effect.

DONE AND ORDERED this 16th day of December, 2020 at the Morre Justice Center, Viera, Florida.



Honorable Charles Roberts

cc Maria Henderson, Attorney for the Former Wife
cc Jane Carey, Attorney for the Former Husband