

No. \_\_\_\_\_

IN THE  
UNITED STATES SUPREME COURT

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**ROBERT BRUMFIELD.,**  
Petitioner,

v.

**CHRISTINA MCCOMAS.,**  
Respondent

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On Petition for a Writ of Certiorari to the  
West Virginia Supreme Court of Appeals

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**PETITIONER'S MOTION FOR EQUITABLE RESTORATION OR  
EXTENSION OF TIME, OR TO FILE OUT OF TIME**

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IN THE UNITED STATES SUPREME COURT

Robert Brumfield., Petitioner

v.

Christina McComas, Respondent

No. \_\_\_\_\_

**Justice:** Hon. John G. Roberts, Chief Justice

**MOTION FOR EQUITABLE RESTORATION OR EXTENSION OF TIME, OR TO FILE OUT OF TIME**

**WHEREAS**, Petitioner Robert Brumfield (“Petitioner”) has been deprived of seven days out of ninety by the West Virginia Supreme Court’s delayed mailing of its April 27, 2023 *Order* denying his petition for rehearing; and,

Whereas, Petitioner’s appendixes were ready to print on July 23, 2023 but Office Depot was too busy to print them because it had a sudden surge in print jobs after it told him that it would be able to print his documents in “two days”; and,

Whereas, Petitioner covered by printing on a printer he bought on eBay to print his finalized petition and final appendix, but his printer started malfunctioning and overheating during the three days of printing those 2500 double-sided sheets; and,

Whereas, Petitioner had stayed up for two days straight finalizing his writings and printing them, but ran out of cut paper at approximately 10 am on July 26, 2023 yet intended to purchase a paper cutter to trim his final printings to size, which finished at approximately 1 pm that afternoon; and,

Whereas, Petitioner realized that he had not printed the covers for his petition because the covers are to be printed on card stock, which is manually fed; he tried to print those covers, but all printers were suddenly offline even though he unplugged everything and restarted all of it; and because of this, he gave up at approximately 6:00 pm because UPS closed at 8:30 pm; and,

Whereas, Petitioner realized after talking to a friend Monday that he has good cause due to the West Virginia Supreme Court’s delayed mailing by five days, which removed 7200 of his proverbial “last minutes,” commonly referenced by the Honorable Court, and the mail removed another 1440 “last minutes”; and,

Whereas, a supreme court’s delay of mailing by five days of a time-sensitive order is an extraordinary circumstance that deprived Petitioner of the fullness of time enjoyed by parties who are served through e-filing,

**COMES NOW** Petitioner, and hereby moves the Honorable Chief Justice to equitably restore or extend his time deprived by the West Virginia Supreme Court or grant him leave to file out of time his Petition for a Writ of Certiorari.

**WHEREFOR**, Petitioner moves the Honorable Chief Justice to find his July 30, 2023 petition timely, or to grant him leave to file out of time, or to equitably restore, extend, or enlarge the time for filing his petition, for the reasons stated above.

Robert Darren Brumfield, Petitioner  
c/o RR1 Box 530 LeSage, West Virginia 25537  
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Date \_\_\_\_\_

**AFFIDAVIT IN SUPPORT OF MOTION FOR EQUITABLE  
RESTORATION OR EXTENSION OF TIME, OR TO FILE OUT OF TIME**

"I am not a law office. I am just some self-represented guy living in a double-wide on a hill who has been unjustly and unequally treated by the West Virginia Supreme Court of Appeals, most recently due to the court's five day delay in mailing its order refusing my petition for rehearing, which is reflected on the postmark for that envelope.

In preparation for this petition, I bought two cases of 11X17 60lb bond paper to make certain Office Depot had the correct paper because they only had 20lb paper when I asked. I also bought an 11X17 printer off of eBay so I could print the finalized version of my petition at home because Office Depot stated it would take two days for them to print the booklets, and I wanted to use the fullness of time I had left. I had two reams pre-cut to 9 ¼ X 12 ¼ in anticipation that 1000 sheets would be enough for 43 copies of my final writing. I also bought 250 sheets of card stock and had them cut down. I did not know that Office Depot stocks heavier paper for its own print jobs until after I bought the paper.

When I tried to get Office Depot to print my appendixes (there were two of approximately 100 pages each), they told me they were too busy to have them done in two days because there was a surge in business due to back to school printings. I returned home and started printing on Sunday July 23, 2023, running through my original 1000 pages early that following morning. I dropped off three reams to Office Depot Monday morning and the man behind the counter told me he would have

them cut that evening. The order was finally ready Tuesday, July 25, 2023 at around noon.

I began printing again as soon as I received the paper. My air conditioning stopped cooling well due to the extreme heat outside (July is the hottest month on record), which made my printer go into cool down mode often, printing at half speed or less due to the common cool down breaks that did not happen before. I stayed up all night minding the printer and inserting citations to my petition. Things were still manageable.

The printer ran out of pre-cut paper at approximately 10 am, so I had it print to full-size sheets. It finally stopped printing around 1 pm the day of the deadline. I had been assembling the books and stapling and taping them when I got down to the actual petitions. I then saw that the printer had not printed the covers on card stock.

At this point, I loaded the printer with card stock and tried to print those cover pages. For some unknown reason, all of my printers registered as being offline. I tried restarting everything several times. I lost the capacity to think critically and clearly because I had stayed up for two days straight after a week of twenty-hour days, and was living on caffeine and nicotine. At around 6 pm that evening, I gave up trying and went to sleep, defeated, because UPS closed at 8:30 pm and I could not complete the printings as required.

I did not realize until I talked to a friend on Monday, July 31 2023 that the West Virginia Supreme Court's five-day delay of a time-sensitive order constitutes

good cause because it is an extraordinary circumstance. I was denied 7.7% of the available time, or 10,080 “last minutes,” to file before I even had notice. I also spent three rushed days researching and writing my motion for an extension of time and my motion to stay issuance of the mandate that was entered the day I received the order denying my petition for rehearing.

I have been placed at a disadvantage compared to parties who enjoy the benefit of e-filing, which creates a question of equitable fairness for me compared to those parties. The above facts present sufficient good cause to allow me to file my petition seven additional days after the due date, which is the same amount of time the West Virginia Supreme Court’s actions denied me. I did not foresee a need to request more time until it was already too late. The West Virginia Supreme Court of Appeals has harmed me, and that harm will be irreparable if I can not file this petition before this Honorable Court.

I was so beside myself with grief over this that I did not think there was any possibility to submit my petition after that deadline, or I would have written this motion sooner. I enclose a copy of the money order, and I do not mail the full set of all 40 required copies because that would be another \$300.00 plus shipping costs that I can not afford to spend if my petition fails due to timeliness issues. I have been unemployed from my union since June 1, 2023 and at this time, every dollar counts. I did not file for pauper status because I was working when I started writing this petition, and there was no prior order granting me leave to proceed in forma

pauperis. I also did not expect to be out of work this long, but there have been no job calls.

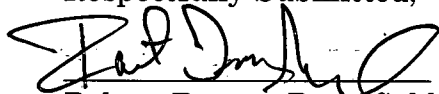
I did not wait until the proverbial last minute here because there have been several superseding or intervening causes that have prevented me from timely filing this petition, especially the West Virginia Supreme Court of Appeals's removal of 10,080 of those "last minutes." I am not asking for an extension of time to write the petition because it was finished within the allotted time. Because this is not a federal case, I could not turn to any local federal judges for help. I presume that you are the correct Justice to move here.

I enclose copies of the money order, my Petition for Writ of Certiorari and Appendixes, the word count certification, and my West Virginia motions to stay mandamus and for leave to file out of time. I also enclose the West Virginia *Order* denying these motions.

It is in the best interests of equity and fundamental fairness to grant this motion."

Further, Affiant sayeth naught.

Respectfully Submitted,

  
Robert Darren Brumfield

14 Aug 20 23  
Date

**VERIFICATION OF AFFIDAVIT IN SUPPORT OF MOTION FOR  
EQUITABLE RESTORATION OR EXTENSION OF TIME, OR TO FILE OUT  
OF TIME**

Robert Darren Brumfield, being first duly sworn, deposes and says:  
That he is the Petitioner in the above-entitled matter; that he has read the above  
and foregoing AFFIDAVIT IN SUPPORT OF MOTION FOR EQUITABLE  
RESTORATION OR EXTENSION OF TIME, OR TO FILE OUT OF TIME and  
knows the contents thereof; that the same is true of his own knowledge, except for  
any matters stated upon information and belief such as attributive, accusatory,  
explanatory, conclusory, or conclusive statements, and as to those matters he  
believes them to be true.



Robert Darren Brumfield

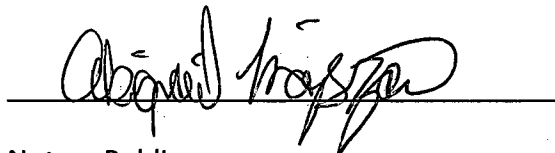
1 Aug 2023

Date

State of West Virginia, County of Cabell.

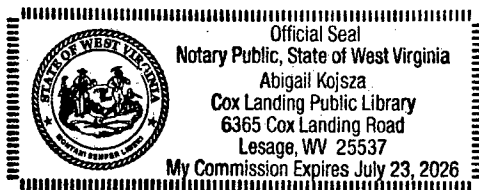
The foregoing was acknowledged before me this 1<sup>st</sup> day of August,  
2023.

(SEAL)



Notary Public

State of WV



My commission expires 7/23/26.