

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

TASHA MERCEDEZ SHELBY,
Petitioner,

v.

STATE OF MISSISSIPPI,
Respondent.

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

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Counsel for Petitioner

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To the Honorable Justice Samuel A. Alito, Jr., as Circuit Justice for the United States Court of Appeals for the Fifth Circuit, in which the Mississippi Supreme Court sits:

The Petitioner, Tasha Mercedes Shelby, respectfully requests a 59-day extension of time, to and including Friday, March 29, 2024, to file a petition for a writ of certiorari. In support of this application, the Petitioner says:

1. On October 16, 2023, the Mississippi Supreme Court denied Petitioner's Amended Motion for Leave to File Petition for Post-Conviction Relief in the Trial Court and the appended Amended Motion for Post-Conviction Relief. Petitioner timely filed a Motion for Reconsideration and Clarification of Order on October 23, 2023. The Mississippi Supreme Court denied the Motion for Reconsideration and

Clarification of Order on November 1, 2023. A copy of both orders are attached to this application. Absent an extension of time, the petition for a writ of certiorari would therefore be due on Tuesday, January 30, 2024. The Petitioner is depositing this request in the United States mail 13 days before the petition's due date.

2. The court to which certiorari would be directed is the Mississippi Supreme Court. This Court has jurisdiction to review the judgment of the Mississippi Supreme Court under 28 U.S.C. § 1257(a).

3. The Petitioner was convicted on June 15, 2000, on one count of capital felony murder. She was sentenced to life imprisonment without parole. The offense, that Ms. Shelby murdered her 2-year-old stepson by abusing him, allegedly occurred on May 31, 1997. Ms. Shelby, however, was not arrested until after the State's Medical Examiner, Dr. LeRoy Riddick, had completed his autopsy report and submitted it to the District Attorney on July 29, 1997. The autopsy report, and death certificate filed by Dr. Riddick, declared the manner of death was homicide, and the cause of death was blunt force trauma to the head later explained as Shaken Baby Syndrome. Ms. Shelby was arrested on August 13, 1997. She spent the next three years in jail waiting for her case to go to trial. After her conviction she sought direct appeal, which was affirmed by the Mississippi Court of Appeals on March 26, 2002. She did not seek *certiorari* review in either the Mississippi Supreme Court or the United States Supreme Court.

4. Petitioner filed a Motion for Post-Conviction Relief in the Mississippi Supreme Court on July 30, 2015, and was granted leave to seek post-conviction

relief in the Harrison County Circuit Court on August 8, 2016. On April 24, 2018, the Harrison County Circuit Court held a PCR evidentiary hearing based on Shelby's claim that the child did not die from Shaken Baby Syndrome. Dr. Riddick, alongside other medical experts, testified on Tasha Shelby's behalf that the child died from a seizure disorder and a short fall, both of which Riddick had failed to acknowledge at the original trial in 2000. The State presented one expert witness, a child abuse pediatrician newly appointed to the case.

5. Dr. Riddick amended the death certificate for the child on June 18, 2018, after the PCR evidentiary hearing. The death certificate was amended to state the manner of death was an accident instead of homicide, and the cause of death was cerebral edema with herniation, hypoxic encephalopathy, and seizure disorder; additional contributing factors were asthma and blunt trauma of the head.

6. The Harrison County Circuit Court was unable to consider the amended death certificate because it was not part of the pending Motion for Post-Conviction Relief. The trial court deemed the case a "battle of the experts" and denied Shelby's petition for PCR on December 7, 2018. The Mississippi Supreme Court affirmed on February 9, 2021.

7. Petitioner then filed another Motion for Post-Conviction Relief in the Mississippi Supreme Court on April 4, 2024, based on newly discovered evidence, after the initial Motion for Post-Conviction Relief was denied in federal court. In this Motion, Petitioner argued that the 2018 amended death certificate was newly discovered evidence, automatically admissible as a vital statistic under Mississippi

Rule of Evidence 803(9), was substantive evidence that Shelby was factually innocent of murder, and that her life sentence without the possibility of parole was based on inaccurate information and thus the sentence violates the Due Process Clause of the Fourteenth Amendment. She additionally argued that the State's PCR Hearing expert testified differently in another similarly situated Shaken Baby Syndrome case, violating Shelby's due process and equal protection rights. Finally, Ms. Shelby argued that a juror withheld crucial information that he was the great-uncle of the deceased child and knew about the child's death, denying Shelby a fair trial.

8. The Mississippi Supreme Court denied Petitioner's Motion for Leave to File Petition for Post-Conviction Relief, stating that the petition was successive, untimely, and "presented no arguable basis for her claims." *See Shelby v. Mississippi*, Mississippi Supreme Court No. 2015-M-01145 (Miss. S. Ct. Oct. 16, 2023). The Order simultaneously *granted* leave for the George C. Cochran Innocence Project to file a Brief as Amicus Curiae in support of Shelby. *See id.* Shelby filed her Motion for Reconsideration and Clarification of Order. Reconsideration was denied, and the Court found that clarification of the prior order was not necessary. *See Shelby v. Mississippi*, Mississippi Supreme Court No. 2015-M-01145 (Miss. S. Ct. Nov. 1, 2023).

9. In this Court, the Petitioner will be challenging the conclusion of the Mississippi state courts that the changed death certificate, an official government record, fails to provide a basis for her due process and equal protection claims.

10. The Petitioner is requesting an extension of time to file a petition for a writ of certiorari, because Petitioner's pro bono counsel, Valena Beety, recently gave birth to a daughter on December 14, 2023. She has been unable to join the Supreme Court Bar, a requirement for filing the petition, and unable to devote the required time and attention to completing the petition. She is currently in the process of applying to the Supreme Court Bar and will be a member by the time of the extended deadline.

11. The Petitioner is requesting an extension of time to file a petition for a writ of certiorari so that the question described above may be properly presented to the Court.

CONCLUSION

Wherefore, the Petitioner, Tasha Mercedes Shelby, respectfully requests a 59-day extension of time, to and including Friday, March 29, 2024, to file a petition for a writ of certiorari.

Respectfully submitted,

/s/ Valena Elizabeth Beety

Valena Elizabeth Beety
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Counsel of Record
Counsel for Petitioner

January 16, 2024

CERTIFICATE OF SERVICE

I, Valena Elizabeth Beety, do hereby certify that I served a true and correct copy of the above and foregoing document by mail to:

Mississippi Attorney General Lynn Fitch
Mississippi Attorney General's Office
P.O. Box 220
Jackson, MS 39205

Criminal Appeals Section Chief Ashley Sulser
Mississippi Attorney General's Office
P.O. Box 220
Jackson, MS 39205

So certified this 16th day of January, 2024.

/s/ Valena Elizabeth Beety

VALENA ELIZABETH BEETY

APPENDIX

Shelby v. Mississippi, Mississippi Supreme Court No. 2015-M-01145 (Miss. S. Ct. Oct. 16, 2023).

Shelby v. Mississippi, Mississippi Supreme Court No. 2015-M-01145 (Miss. S. Ct. Nov. 1, 2023).

Serial: 249068

IN THE SUPREME COURT OF MISSISSIPPI

No. 2015-M-01145

TASHA MERCEDEZ SHELBY

FILED

Petitioner

v.

OCT 16 2023

STATE OF MISSISSIPPI

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Respondent

ORDER

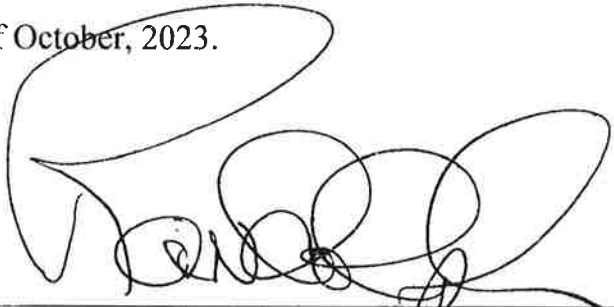
This matter is before the panel of Randolph, C.J., Ishee and Griffis, JJ., on the Motion for Leave to File Petition for Post-Conviction Relief in the Trial Court filed by counsel for Tasha Mercedes Shelby. Also before the panel is the Motion of the George C. Cochran Innocence Project for Leave to File a Brief as Amicus Curiae. The panel finds that the amicus brief should be accepted for filing.

After due consideration, the panel finds that Shelby's previous petitions for post-conviction relief have ultimately been denied and that the present filing is successive. Miss. Code Ann. § 99-39-27 (Rev. 2020). The panel further finds that the petition is untimely. Miss. Code Ann. § 99-39-21 (Rev. 2020). Notwithstanding the bars, we find that Shelby has presented no arguable basis for her claims and that the petition should be denied. *See Means v. State*, 43 So. 3d 438, 442 (Miss. 2010).

IT IS THEREFORE ORDERED that the Motion of the George C. Cochran Innocence Project for Leave to File a Brief as Amicus Curiae is granted.

IT IS FURTHER ORDERED that the Motion for Leave to File Petition for Post-Conviction Relief in the Trial Court filed by Tasha Mercedes Shelby is denied.

SO ORDERED, this the 12 day of October, 2023.



MICHAEL K. RANDOLPH, CHIEF JUSTICE

Serial: 249235

IN THE SUPREME COURT OF MISSISSIPPI

No. 2015-M-01145

TASHA MERCEDEZ SHELBY

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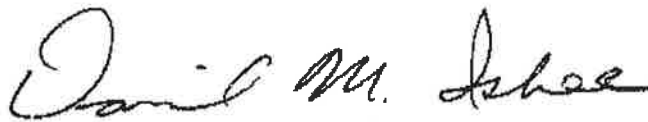
ORDER

This matter is before the undersigned Justice on the Motion for Reconsideration and Clarification of Order filed by counsel for Tasha Mercedes Shelby. Shelby seeks reconsideration of the denial of her most-recent petition for post-conviction relief. Reconsideration is not permitted by M.R.A.P. 27(h). The undersigned Justice further finds that clarification of the prior order is not necessary.

IT IS THEREFORE ORDERED that the Motion for Reconsideration and Clarification of Order filed by counsel for Tasha Mercedes Shelby is denied.

SO ORDERED.

DIGITAL SIGNATURE
Order#: 249235
Sig Serial: 100007802
Org: SC
Date: 11/01/2023



David M. Ishee, Justice