

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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Apr 17 2023

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Robin B. Stilwell, Circuit Court Judge

Opinion No. 2023-UP-070 (S.C. Ct. App. filed Feb. 22, 2023)
Appellate Case No. 2019-001501

James John Todd Kincannon,

Petitioner,

v.

Ashely Suzanne Griffith,
Moore Taylor Law Firm, P.A.,
Vance Stricklin, and Amber
Fulmer,

Respondents.

**PETITIONER'S REQUEST FOR ACCOMMODATION
PURSUANT TO THE AMERICANS WITH DISABILITIES ACT
WITH RESPECT TO THE PREPARATION OF A PETITION FOR
WRIT OF CERTIORARI AND ACCOMPANYING FILINGS**

Other Counsel of Record:
Ward Bradley
Moore Bradley Myers
1700 Sunset Blvd.
West Columbia, SC
Attorney for Respondent

James John Todd Kincannon
216 Jones Avenue
Simpsonville, SC 29681
864-963-4374
ToddKincannon@gmail.com
Appellant Pro Se

**PETITIONER’S REQUEST FOR ACCOMMODATION
PURSUANT TO THE AMERICANS WITH DISABILITIES ACT
WITH RESPECT TO THE PREPARATION OF A PETITION FOR
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Petitioner respectfully submits the following request for accommodation pursuant to the Americans with Disabilities Act with respect to the preparation of a petition for writ of certiorari and accompanying filings:

NATURE OF PETITIONER’S DISABILITY

1. Petitioner has been diagnosed with, and continues to suffer from, a number of serious psychiatric ailments, including but not limited to attention deficit hyperactivity disorder (“ADHD”), anxiety, and depression.¹
2. Petitioner’s ADHD, which is primarily relevant to this accommodation request, is severe and, per doctor’s orders, cannot be treated with prescription drugs.²
3. Petitioner is entirely capable of completing litigation tasks, including drafting filings, but Petitioner ordinarily needs extra time beyond that prescribed by court rules, particularly for tasks that involve complex drafting such as an appellate brief or petition for writ of certiorari or other complex document.³
4. Petitioner has often made disability accommodation requests regarding

1 Should the Court require medical documentation of Petitioner’s psychiatric diagnoses, Petitioner will certainly provide it, although Petitioner would request the Court stay this action for some reasonable period of time (perhaps 45 days) to enable Petitioner to gather the records from his previous treatment providers, which are numerous.

2 Petitioner’s ADHD was treated by drugs prior to 2018, but in 2018 Petitioner suffered a psychotic episode as a side effect of ADHD drugs. Since that time, Petitioner’s doctors have determined that Petitioner cannot take ADHD drugs safely. Accordingly, Petitioner’s ADHD is untreated by medication and is severe.

3 Petitioner is usually capable of drafting simple litigation documents in the ordinary time established by rule, such as a notice of appeal. But for anything that requires actual drafting, as opposed to simply following a form, Petitioner needs extra time.

deadlines in other courts, state and federal, and has always been accommodated.

5. Accordingly, Petitioner respectfully submits that he is a qualified individual with a disability pursuant to the Americans with Disabilities Act and requests the following accommodations:

ACCOMMODATION REQUESTS

1. In light of the foregoing, Petitioner requests the following accommodation: That he be permitted to submit an Amended Petition for Writ of Certiorari to this Court on or before May 17, 2023, a one-month extension. Such Amended Petition for Writ of Certiorari will replace the bare-bones, unpolished Petition for Writ of Certiorari that Petitioner is submitting along with this filing.

2. Petitioner is submitting a bare-bones, unpolished Petition for Writ of Certiorari along with this filing to avoid forfeiting his right to submit any Petition for Writ of Certiorari in the event the Court refuses Petitioner's ADA accommodation request.

3. The Petition for Writ of Certiorari that Petitioner is filing today, April 17, 2023, is legally sufficient for such a petition but is by no means a polished, fully-argued filing. Petitioner submits it only out of an abundance of caution and to avoid any potential argument that the deadline for filing a petition for writ of certiorari is jurisdictional.⁴ It is a mere unpolished rough draft of what Petitioner intends to file, and although it is legally sufficient, it by no means is sufficiently

⁴ Petitioner does not believe that the failure to file a petition for writ of certiorari within the deadline is jurisdictional, as there is at least one South Carolina case—a death penalty case—where this Court allowed the filing of a petition for writ of certiorari after the deadline. Petitioner has not been able to locate the case where this occurred in the timeline allotted, due to his ADHD.

polished or persuasive for the grant of an extraordinary writ, certiorari. Petitioner is capable of producing a persuasive, polished petition for writ of certiorari, but not within the thirty day deadline. Petitioner needs an additional thirty days due to his disability.

4. Petitioner has completed all other filings associated with a petition for writ of certiorari, including preparation of the joint appendix and preparation of the Rule 242(d)(1) certification. Petitioner only needs extra time to finish drafting a persuasive, fully-argued petition for writ of certiorari.

5. Accordingly, Petitioner respectfully requests the Court allow Petitioner, as an ADA accommodation, to file an Amended Petition for Writ of Certiorari on or before May 17, 2023.

6. As noted in Footnote 1, supra, Petitioner will certainly gather and submit medical documentation to support this request should the Court require it, although Petitioner notes that other courts have routinely granted Petitioner's accommodation requests without additional documents and Petitioner's psychiatric difficulties are not unknown to this Court.

Respectfully submitted,

April 17, 2023

s/James John Todd Kincannon
James John Todd Kincannon
216 Jones Avenue
Simpsonville, SC 29681
864-963-4374
ToddKincannon@gmail.com
Appellant Pro Se