

IN THE SUPREME COURT OF FLORIDA

MARK DEAN SCHWAB

Case No. SC07-2138

Appellant,

Capital Case, Warrant Signed

v.

STATE OF FLORIDA,

Appellee.

\_\_\_\_\_ /

OPPOSITION TO MOTION FOR EXTENSION OF TIME

COMES NOW the State of Florida, and responds as follows to Schwab's motion for an extension of time for filing his *Initial Brief*. For the reasons set out below, that motion should be denied:

1. At approximately 3:00 PM on November 26, 2007, the undersigned was contacted by counsel for Schwab, who requested an extension of time for filing the Defendant's *Initial Brief*. **No reason for such request was given.**

2. At approximately 3:30 PM on that same day, a written motion for an extension was received. For the first time, counsel for Schwab asserted that he was "ill."

3. The briefing schedule for this case was established on November 16, 2007. Schwab has had 10 days to prepare that brief, and there is no reason that the requested extension could not have been made in a timely fashion.

4. By waiting until the last possible moment to request more time, Schwab has attempted to obtain a *de facto* extension by simply not filing his brief. Such dilatory tactics should not be rewarded, especially since there is no assertion that there is an emergency of any sort that prevented a timely request. The last minute request is abusive and should be denied.

Respectfully submitted,

BILL McCOLLUM

ATTORNEY GENERAL

---

KENNETH S. NUNNELLEY  
Senior Assistant Attorney General  
Florida Bar #998818  
444 Seabreeze Blvd., 5th Floor  
Daytona Beach, FL 32118  
(386) 238-4990  
FAX (386) 226-0457

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above has been furnished by **Facsimile** and **U.S. Mail** to: **Mark Gruber**, Assistant CCRC-Middle, 3801 Corporex Park Drive, Suite 210, Tampa, Florida 33619, **Robert Wayne Holmes**, Assistant State Attorney, 2725 Judge Fran Jamieson Way, Building D, Viera, Florida 32940 on this \_\_\_\_\_ day of November, 2007.

---

Of Counsel