

No. 1-22-0322

IN THE

APPELLATE COURT OF ILLINOIS

FIRST JUDICIAL DISTRICT – FIRST DIVISION

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of Cook County, Illinois
Plaintiff-Appellee,)	
)	
-vs-	)	No. 20 CR 03050-01
)	
JUSSIE SMOLLETT,	)	Honorable
	)	James B. Linn
Defendant-Appellant.	)	Judge Presiding.

**DEFENDANT-APPELLANT’S 5TH MOTION FOR EXTENSION OF TIME TO FILE
THE DEFENDANT-APPELLANT’S BRIEF TO MARCH 1, 2023**

NOW COMES the Defendant-Appellant, JUSSIE SMOLLETT, by and through one of his attorneys, Nnanenyem E. Uche of UCHE P.C, pursuant to Illinois Supreme Court rules 610 and 361, and Rule 4(D) of this Court’s rules, and respectfully moves this Honorable Court for a final extension of time to file Appellant Brief and Appendix up to and including March 1, 2023, and in support thereof states as follows:

1. The Notice of Appeal in the above-captioned matter was filed on March 10, 2022, with the Clerk of the Circuit Court of Cook County.
2. The Defendant-Appellant is currently out of custody on a \$150,000 personal recognizance bond (I-Bond) granted by this Honorable Court on March 16, 2022.

3. A Docketing Statement was filed in this matter on March 11, 2022 and an amended docketing statement was filed on March 24, 2022.
4. The record on appeal was filed on July 18, 2022, and the Defendant-Appellant's brief and appendix were ordered to be filed on August 22, 2022.
5. Subsequently, Defendant-Appellant requested an extension to file the Appellant brief with appendix to September 26, 2022. This request was granted.
6. On September 25, 2022, Defendant-Appellant requested a second extension to November 17, 2022 to file the Appellant brief with appendix. This request was granted.
7. On November 16, 2022, Defendant-Appellant requested a third extension to December 21, 2022 to file the Appellant brief with appendix. This request was granted.
8. On December 19, 2022, Defendant-Appellant filed a fourth unopposed request for extension of time to file Defendant-Appellant brief with appendix. This request was granted.
9. This is the Defendant-Appellant's fifth request for an extension of time to file Defendant-Appellant's brief with Appendix.

*THE EXISTENCE OF "GOOD CAUSE" FOR GRANTING THE
REQUESTED ADDITIONAL TIME*

1. The Defendant-Appellant's brief has been written. However, Defendant-Appellant needs to cite to the proposed supplemental record that was recently submitted via electronic upload to this appellate court.
2. The proposed supplemental records were submitted and accompanied by Defendant-Appellant's Second Instanter Motion to Supplement the Record on January 13, 2023. To date, this motion has not yet been ruled upon by this Honorable Court.

3. Additionally, on January, 15, 2023, Defendant-Appellant submitted a Motion for Leave to File Oversized Brief. Said motion was sworn pursuant to 735 ILCS 5/1-109, as stated in the opening paragraph of that motion. This motion, as well, has yet to be ruled upon by this Honorable Court.
4. Defendant-Appellant attorneys are diligently working to complete the Defendant-Appellant's brief. To be sure, the brief is essentially complete with the exception of making citations to the second supplemental record.
5. Additionally, Defendant-Appellant's brief is complete at 80 pages, considering the numerous constitutional and trial issues litigated in this case, and is thus awaiting a ruling from this Honorable Court on the Defendant-Appellant's Motion For Leave to File Oversize Brief request.
6. In the given circumstances, the Defendant-Appellant respectfully prays that this Honorable Court finds that "good cause" exists for granting the requested additional time, in order for the additional work to be done towards diligently completing the Appellant brief.
7. The OSP, having been contacted pursuant to Illinois Supreme Court Rule 610(C), is objecting to this filing.

WHEREFORE, for all the reasons stated above, the Defendant-Appellant, Jussie Smollett, respectfully prays that this Court grant Appellant's Motion for an extension of time to properly prepare and file the Appellant brief and appendix, up to and including March 01, 2023, or whichever date this Court deems fit, and for any and other relief this Court deems necessary in the interests of justice.

Respectfully submitted.

/s/ Nnanenyem E. Uche
Nnanenyem E. Uche (6294606)
Uche P.C.
Attorney for Defendant-Appellant
314 N. Loomis St
Suite G2
Chicago, IL 60607
(312) 280-5341
Email: nenye.uche@uchelitigation.com

So certified, this 25th day of January 2023.

CERTIFICATE OF SERVICE

NOW COMES, Heather A. Widell, and hereby certifies that she has on this date served the foregoing *Defendant-Appellant's 5th Motion for Extension of Time to File Defendant-Appellant's Brief to March 01, 2023* by submitting the same electronically with the Clerk of the Court through an authorized electronic filing service vendor of the Illinois Courts, and requesting and thereby causing service to be effected electronically to:

Office of Special Prosecutor:
Dan Webb (DWebb@winston.com)
Sean G. Wieber (SWieber@winston.com)
Sam Mendenhall (SMendenh@winston.com)
Matt Durkin (MDurkin@winston.com)\
Winston & Strawn LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
D: 1(312) 558-5769
F: 1(312) 558-5700

So certified, 25th day of January, 2023.

/s/ Heather A. Widell

Heather A. Widell
Attorney for DEFENDANT-APPELLANT
The Law Offices of Heather A. Widell
1507 E. 53rd Street, Suite 2W
Chicago, Illinois 60615
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heather@thelawofficehaw.com
Cook County Attorney #: 59374
ARDC#: 6311451

**RULE 610 AFFIDAVIT IN SUPPORT OF DEFENDANT APPELLANT'S MOTION TO
EXTEND THE TIME-LIMIT FOR FILING THE DEFENDANT-APPELLANT'S BRIEF
TO JANUARY 25, 2023**

NOW COMES Nnanenyem E. Uche, the undersigned attorney for Defendant-Appellant, Jussie Smollett, and pursuant to Illinois Supreme Court Rule 610 states as follows on oath and under penalty of perjury:

1. That he was engaged to represent the Defendant-Appellant and to prosecute this appeal on the Defendant-Appellant's behalf, upon the completion of the sentencing hearing before the Circuit Court on March 10, 2022;
2. That the record on appeal was first filed on July 18, 2022;
3. That the foregoing Motion to for Extension of Time to File Defendant-Appellant's Brief to March 01, 2023, has been necessitated due to the reasons advanced in the motion;
4. That opposing counsels from the Office of Special Prosecutor were informed via email on January 25 2023 of Defendant-Appellant's intention to file a motion to this Court for Extension of Time to File Appellant's Brief. The OSP responded via email on January 25, 2023, and stated that they are objecting to this filing.
5. That said Motion for Extension of Time to File the Defendant-Appellant's Brief to March 01, 2023, has been filed in the good-faith discharge of counsel's obligations to the Defendant-Appellant.

THE AFFIANT SAYS NOTHING FURTHER

/s/ Nnanenyem E. Uche

I certify under penalties provided by law pursuant to 735 ILCS §5/1-109 that the statements set forth in the foregoing Pleading and in this Affidavit, are true and correct, except as to matters therein stated to be on information and belief and as to such matters I certify as aforesaid that I verily believe the same to be true.

This 25th day of January 2023.

/s/ Nnanenyem E. Uche

Nnanenyem E. Uche (6294606)

Uche P.C.

Attorney for Defendant-Appellant

314 N. Loomis St, Suite G2

Chicago, IL 60607

(312) 280-5341

Email: nenye.uche@uchelitigation.com

CERTIFICATE OF SERVICE

NOW COMES, Heather A. Widell, and hereby certifies that she has on this date served the foregoing Rule 610 Affidavit in Support of *Defendant-Appellant's 5th Motion For Extension of time to File the Defendant-Appellant's Brief to March 01, 2023*, by submitting the same electronically with the Clerk of the Court through an authorized electronic filing service vendor of the Illinois courts, and requesting and thereby causing service to be effected electronically to:

Office of Special Prosecutor

c/o

Dan Webb (DWebb@winston.com)

Sean G. Wieber (SWieber@winston.com)

Sam Mendenhall (SMendenh@winston.com)\

Matt Durkin (MDurkin@winston.com)\

Winston & Strawn LLP

35 W. Wacker Drive

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So certified, 25th day of January 2023

/s/ Heather A. Widell

Heather A. Widell

Attorney for DEFENDANT-APPELLANT

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Cook County Attorney #: 59374

ARDC#: 6311451

No. 1-22-0322

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PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of Cook County, Illinois
Plaintiff-Appellee,)	
)	
-vs-	)	No. 20 CR 03050-01
)	
JUSSIE SMOLLETT,	)	Honorable
	)	James B. Linn
Defendant-Appellant.	)	Judge Presiding.

NOTICE OF FILING

To: Attorney(s) for Plaintiff/Appellee:
Office of Special Prosecutor
% Dan Webb (DWebb@winston.com)
Sean G. Wieber (SWieber@winston.com)
Sam Mendenhall (SMendenh@winston.com)
Matt Durkin (MDurkin@winston.com)\
Winston & Strawn LLP
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Chicago, IL 60601-9703
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PLEASE TAKE NOTICE that on January 25, 2023, I electronically submitted to the Clerk of the Illinois Appellate Court, 1st District, 160 North LaSalle Street, Room S1400, Chicago, Illinois 60601, a *Defendant-Appellant's 5th Motion For Extension of Time to File Defendant-Appellant's Brief to March 1, 2023*, for filing in the above-captioned case.

By: /s/ Heather A. Widell
Attorney for Defendant-Appellant

Heather A. Widell
Attorney for DEFENDANT-APPELLANT
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Chicago, Illinois 60615
Ph: 773-955-0400 /Fax: 773-955-1951
heather@thelawofficehaw.com
Cook County Attorney #: 59374
ARDC#: 6311451

This 25th day of January, 2023.

CERTIFICATE OF SERVICE

NOW COMES, Heather A. Widell, and hereby certifies that she has on this date served the foregoing Notice of Filing by submitting the same electronically with the Clerk of the Court through an authorized electronic filing service vendor of the Illinois courts, and requesting and thereby causing service to be effected electronically to:

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So certified, 25th day of January 2023

Heather A. Widell
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JUSSIE SMOLLETT,)	Honorable
)	James B. Linn
Defendant-Appellant.)	Judge Presiding.

ORDER

This cause coming before this Court on the *Defendant-Appellant's 5th Motion For Extension of Time to File the Defendant-Appellant's Brief to March 01, 2023*, with all parties having been notified, the Court having jurisdiction and having been fully advised in the premises,

IT IS HEREBY ORDERED:

() Defendant-Appellant's Motion is ALLOWED

() Defendant-Appellant's Motion is DENIED.

Justice

Nnanenyem E. Uche
Counsel for Appellant
Uche P.C.

Justice

314 N. Loomis St., Suite G2
Chicago, IL 60607

Justice

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