

IN THE SUPREME COURT OF FLORIDA

MARCUS ROLAND MAYE,

Petitioner,

v.

Case No. SC2023-1184

STATE OF FLORIDA,

Respondent.

_____ /

**MOTION TO ACCEPT AMICUS CURIAE BRIEF AND ITS SEPARATELY-
BOUND APPENDIX AS TIMELY FILED BY MAIL UNDER THE
"PRISON MAILBOX RULE" ON SEPTEMBER 10, 2024**

In accordance with Florida Rule of Appellate Procedure 9.300, I, Roger C. Cassidy, pro se, respectfully move this Court to accept my amicus curiae brief in support of the petitioner, Marcus Roland Maye (Maye), and its separately-bound appendix, as timely filed by mail under the "prison mailbox rule" on September 10, 2024,¹ and I state the following in support thereof:

¹ Fla. Admin. Code R. 33-210.102(8)(g) (providing for official date-stamping of inmates' outgoing legal mail by prison officials); Crews v. Malara, 123 So. 3d 144 (Fla. 1st DCA 2013) (finding that the official date-stamp, showing when a mandamus petition was, in fact, provided to prison administrators for mailing, is decisive as to its timeliness under the venerable "prison mailbox rule").

Received, Clerk, Supreme Court

OCT 01 2024

1. My brief and appendix were due to be served by September 10, 2024, Order at 1, Marcus Roland Maye v. State of Florida, No. SC2023-1184 (Fla. Sept. 12, 2024), so I provided a prison mailroom official at the Mayo Correctional Institution - Annex with these things for mailing to this Court, counsel for the parties, and the other amicus curiae via prepaid first-class mail on September 10, 2024, App. A, Brief of Amicus Curiae Roger C. Cassidy at 1-22 (Cassidy's Amicus Curiae Brief); App. B, Appendix in Support of Brief of Amicus Curiae Roger C. Cassidy at 1-5 (Appendix in Support of Cassidy's Amicus Curiae Brief).

2. Thus, the prison mailroom official duly affixed the following date-stamp on the front page of my brief and appendix:

PROVIDED TO MAYO CORRECTIONAL INSTITUTION
ON 9-10-24 (DATE) FOR MAILING
[initials] (STAFF INITIALS) [initials] (I/M INITIALS)

App. A, Cassidy's Amicus Curiae Brief at 1; App. B, Appendix in Support of Cassidy's Amicus Curiae Brief at 1.²

3. The certificate of service for my brief and appendix also certify "under the penalties of perjury" that true and correct copies were, in fact, served on counsel for the parties and the other amicus curiae "via prepaid first-class mail on September 10, 2024." App. A, Cassidy's Amicus Curiae

² See supra note 1.

Brief at 21-22; App. B, Appendix in Support of Cassidy's Amicus Curiae Brief at 4-5.³

4. Even so, it appears as if this Court and counsel for the State of Florida have not yet received my brief and appendix.

5. Thus, I am now acting in an abundance of caution by filing this motion requesting that this Court accept my brief and appendix as timely filed by mail under the "prison mailbox rule" on September 10, 2024.⁴ See, e.g., Delarco v. State, 634 So. 2d 623 (Fla. 1994); Franke v. Schueler, 534 So. 2d 399 (Fla. 1988); City of Key West v. Knowles, 944 So. 368 (Fla. 3d DCA 2006); Kiwanis Club v. De Kalafe, 719 So. 2d 907 (Fla. 3d DCA 1998); Harrison v. Citibank v. Fed. Sav. Bank, 712 So. 2d 1257 (Fla. 5th DCA 1998); Coney v. State, 677 So. 2d 847 (Fla. 3d DCA 1996); see also Cornea v. United States AG, 771 F. App'x 944, 945 n.1 (11th Cir. 2019); Thompson v. Caldera, 109 F. App'x 250, 257 (10th Cir. 2004); Abdullah v. Frank, 2007 U.S. Dist. LEXIS 13215, at *13 (E.D. Wisc. Feb. 26, 2007).

6. Of course, it should go without saying (and I thusly concede) that if this Court receives and files my brief and appendix prior to its receipt and filing of this motion, my request herein will be moot.


³ See supra note 1.

⁴ See supra note 1.

WHEREFORE, I pray that this Court will accept my amicus curiae brief and its separately-bound appendix as timely filed by mail under the "prison mailbox rule" on September 10, 2024.

Respectfully submitted,

ROGER C. CASSIDY



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*Amicus Curiae Support of Petitioner
Marcus Roland Maye*

VERIFICATION

UNDER THE PENALTIES OF PERJURY, I hereby declare that I have read this motion and that the facts stated in it are true and correct.
§ 92.525, Fla. Stat. Executed on September 18, 2024.



ROGER C. CASSIDY

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of this motion was, . . .
in fact, served on counsel for the parties and the other amicus curiae:

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via prepaid first-class mail on September 18, 2024.



ROGER C. CASSIDY