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**IN THE COURT OF APPEALS OF MISSISSIPPI**  
**No. 2020-CP-01259-COA**

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MATTHEW REARDON  
*Appellant*

v.

STATE OF MISSISSIPPI  
*Appellee*

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On Appeal from the Circuit Court  
of Lafayette County, Mississippi

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**RESPONSE IN OPPOSITION TO**  
**MOTION FOR PEREMPTORY REVERSAL**

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*Counsel for Appellee*

The State of Mississippi moves this Court to deny the Appellant's Motion for Peremptory Reversal. In further support of this Motion, the State submits the following:

**I.**

The Appellant filed his brief on August 20, 2021, and a brief non-compliance letter was issued the same day. The letter indicated that the Appellant had failed to (1) include the trial judge in his certificate of service, (2) submit a copy of his brief in disk-form as required by Rule 28(n) of the Mississippi Rules of Appellate Procedure, and (3) submit record excerpts in compliance with Rule 30.

**II.**

The Appellant requested additional time to file his corrections and was granted seven days, until September 16, 2021, to file.

**III.**

On September 17, 2021, the Appellant filed a Motion for Peremptory Reversal and alternatively requested an extension of time to file his corrections while simultaneously asking the Court to expedite the consideration of his appeal.

#### IV.

This Court should deny the Appellant's request for peremptory reversal. He has cited no authority which supports his request. Further, his appeal is not properly before this Court because he has failed to comply with the mandates of the Mississippi Rules of Appellate Procedure. If and when Reardon files his corrected brief, the State should have an opportunity to respond. M.R.A.P. 31(b).

#### V.

Because the Appellant has failed to show why he has yet to cure the deficiencies of his appeal, this Court should deny his request for additional time to do so. If the Court denies the Appellant's second request for time, it should also dismiss his appeal. *See* M.R.A.P. 31(d) and M.R.A.P. 2(a)(2).

#### VI.

This Court should deny the Appellant's request for an expedited appeal. Reardon appeals the denial of his motion for post-conviction relief; thus, this case is civil in nature. Miss. Code Ann. § 99-39-7. Rule 23(a) of the Mississippi Rules of Appellate Procedure provides that “[e]xcept as may be provided by special order, all civil cases will be

submitted in the order in which they stand on the docket.” The comment to Rule 23(a) lists certain categories of cases that are statutorily entitled to preferential docketing, none of which apply here. Accordingly, this Court should deny the Appellant’s request for expedition.

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**CERTIFICATE OF SERVICE**

I, Barbara Byrd, do hereby certify that I have electronically filed this document with the Clerk of the Court using the MEC system, and mailed, via U.S. Mail, postage pre-paid to the following:

Honorable John Kelly Luther  
Circuit Court Judge  
102 N. Main Street, Ste. F  
Ripley, MS 38663

Honorable Ben Creekmore  
District Attorney  
111 East Main Street  
New Albany, MS 38652

Matthew Reardon  
PO Box 1360  
Bruce, MS 38915

THIS, the \_\_\_ day of \_\_\_\_\_, 2021.

LYNN FITCH  
Attorney General of Mississippi

*/s/ Barbara Byrd*  
\_\_\_\_\_  
BARBARA BYRD  
Special Assistant Attorney General

*Counsel for Appellee*