

**COMMONWEALTH OF KENTUCKY
COURT OF APPEALS
FILE NO. 2024-CA-1360**

WILLOW CHERRY

APPELLANT

**v. APPEAL FROM FAYETTE CIRCUIT COURT
INDICTMENT NO. 18-CR-1114**

COMMONWEALTH OF KENTUCKY

APPELLEE

MOTION TO EXTEND BRIEFING TIME
****Electronically Filed****

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Comes now Appellant, Willow Cherry, by and through counsel, and moves this Court, pursuant to RCr 12.02, CR 6.02, and CR 73.08, for an extension of time of 90 days from the current due date of January 31, 2025, to May 1, 2025, to brief the issues. In support thereof, Appellant states the following:

1. Mr. Cherry entered a conditional guilty plea to second-degree manslaughter. He received a total sentence of 7 years.
2. A notice of appeal was timely filed on November 1, 2024. Mr. Cherry was permitted to proceed *in forma pauperis* on November 4, 2024. The record on appeal was released to DPA on December 2, 2024. Undersigned counsel was internally assigned to this case the next day.

3. Undersigned counsel, who was not involved at the trial level, has conducted an examination of the record in their possession sufficient to enable a request for an adequate amount of additional time in which to prepare the brief. *Caldwell v. Commonwealth*, 157 S.W.3d 215, 223 (Ky. App. 2004). Mr. Cherry's record contains 7 volumes of written trial records, one 1 sealed volume of written trial records, and approximately 8 hours of video records. Additional time is needed to review the written records, conduct legal research, draft an original brief, and to discuss appellate issues with Mr. Cherry.
4. This is the first motion for an extension of time. This motion does not exhaust Appellant's time allotment under *Caldwell*, 157 S.W.3d at 223. Undersigned counsel will make a diligent effort to complete the brief before the expiration of this time.
5. By its express language, Section 115 of the Kentucky Constitution mandates that criminal defendants are entitled to at least one appeal upon the record as a right. Appellant will be substantially prejudiced if his appeal is dismissed because Appellant's counsel is unable to brief the case due to scheduling constraints.

WHEREFORE, Willow Cherry, through counsel, respectfully requests this Court grant an extension of time of 90 days from the current due date of January 31, 2025, to May 1, 2025.

Respectfully submitted,

A handwritten signature in black ink that reads "Kayla D. Deatherage". The signature is written in a cursive, flowing style.

Kayla D. Deatherage, #98475
Assistant Public Advocate
Department of Public Advocacy
5 Mill Creek Park, Section 100
Frankfort, KY 40601
(502) 564-8006

NOTICE

Please take notice that the foregoing motion was electronically filed in the Office of the Clerk of the Kentucky Court of Appeals on this 31st day of January, 2025.



Kayla D. Deatherage

CERTIFICATE OF SERVICE

I do hereby certify that a true and complete copy of the above motion has been served by state messenger service, mailed, postage pre-paid, or emailed this 31st day of January, 2025, to the following:

Hon. Russell Coleman
Kentucky Attorney General
1024 Capital Center Drive
Frankfort, KY 40601



Kayla D. Deatherage