

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



ATTORNEY FOR APPELLANT

Michael K. Ausbrook
IU Maurer School of Law
Federal Habeas Project
Bloomington, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General
Ellen H. Meilaender
Supervising Deputy Attorney
General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

John Shelton,
Appellant-Petitioner,

v.

State of Indiana,
Appellee-Respondent

June 29, 2023

Court of Appeals Case No.
22A-PC-3048

Appeal from the
Hendricks Superior Court

The Honorable
Stephenie LeMay-Luken, Judge

Trial Court Cause No.
32D05-2110-PC-8

Memorandum Decision by Judge Vaidik
Judges Mathias and Foley concur.

Vaidik, Judge.

- [1] John Shelton appeals the trial court’s denial of his petition for post-conviction relief. He contends the court should have (1) given him a reasonable time to amend his petition after the State Public Defender’s Office withdrew its representation, (2) denied the State’s motion for summary judgment, and (3) entered findings of fact and conclusions of law. He asks us to remand to the trial court for further proceedings. The State concedes error on all three points and agrees that remand is appropriate. We accept the State’s concession, reverse the denial of Shelton’s petition, and remand to the trial court.
- [2] After obtaining the State’s concession, Shelton filed a reply brief seeking additional relief. Specifically, he argues we should order that (1) “he be given at least six months before any evidentiary hearing to hire a lawyer and amend his post-conviction petition” and (2) his post-conviction case be heard by a different trial-court judge “because the current judge’s treatment of [him] has been repeatedly not merely unfair, but unreasonable.” Appellant’s Reply Br. pp. 6-9. Because Shelton did not make these arguments in his opening brief, and because he does not support them with citations to the record or legal authority, he has waived them. *See* Ind. Appellate Rule 46.
- [3] Reversed and remanded.

Mathias, J., and Foley, J., concur.