

RECEIVED

Jun 14 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
The Honorable G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JASON DONN LEE,

APPELLANT

APPELLATE CASE NO. 2019-001977

**MOTION FOR AN EXTENSION TO FILE THE INITIAL BRIEF OF
RESPONDENT AND DESIGNATION OF MATTER**

Counsel for The State of South Carolina respectfully requests a **first thirty (30) day extension until July 14, 2022**, in which to file the initial brief of respondent and designation of matter in the above-referenced case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a first request for an extension. In support of this request, counsel shows:

1. Counsel has been reviewing matters due to his involvement as Chairman on the Office of the Attorney General's Appellate Decision Review Committee. The Committee was formed to review all adverse decisions in Capital, Federal Habeas, Direct Appeals, and Post-Conviction Relief matters, and to determine whether the State will appeal these rulings. In the last thirty days, counsel has reviewed the following matters: On May 24, the Committee had an emergency meeting in *Lynel Witherspoon v. Stonebreaker*, 30 F.4th 381 (4th Cir. 2022), a federal habeas corpus matter in which a panel of the Fourth Circuit held, 2-1, that counsel was

ineffective for not strenuously objecting to jury request for inmate to stand while jurors compared him to enlarged photo after deliberations had begun. The inmate has had massive stroke, is currently on a ventilator, and the Solicitor has said he will not re-prosecute the case; On June 3, 2012, the Committee heard *Harold Cartwright v. State*, an Aiken County PCR case in which relief was granted to an Applicant who was convicted of multiple counts of criminal sexual conduct with a minor and lewd act on a minor, in connection with crimes against female family members; the Committee heard *Shag Qu-Tee Marshall v. State*, 2012-CP-15-0361, a Colleton County PCR case, in which the Applicant pled guilty to charges of murder, possession of a weapon during a violent crime, and attempted murder, and the PCR court partially granted relief; the Committee briefly discussed *Robert Moore III v. State*, 1990-GS-12-129, -130, -132, & -133, a Chester County resentencing hearing held pursuant to *Aiken v. Byars*, 410 S.E.2d 534 (S.C. S.Ct. 2014), which is still pending in the circuit court; and the Committee reviewed the position to take with respect to a concession either at or before oral argument before the Supreme Court of South Carolina based on a statutory change in the direct appeal case of *In the Interest of Christopher H.*, Opinion No. 5797 (S.C.Ct. App. Feb. 3, 2021), Appellate Case No. 2017-001257. On June 10, 2022, the Committee heard *Brandyn Ratliff, #366392 v. State*, 2016-CP-13-0202, a Chesterfield County PCR in which relief was granted based on ineffective assistance of counsel based on plea counsel's failure to meet with Petitioner prior to the plea to kidnapping and second-degree assault and battery, as well as counsel's failure to review discovery with Petitioner, and failure to investigate a letter from the victim to the Honorable Paul M. Burch.

2. On May 26, 2022, counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment and a Motion for Summary Judgment in *James Tytil Wright, # 307354 v. Warden, Broad River Correctional Institution*, C/A No. 0:22-cv-1102-RMG-PJG, a federal habeas corpus matter in which the petitioner challenges his convictions for kidnapping and armed robbery;

3. On June 7, 2022, counsel represented the State at oral argument in *State v. Malette Denise Kimbrough*, Appellate Case No. 2019-001013, a Greenville County murder case pending before the South Carolina Court of Appeals;

4. On June 14, 2022, counsel filed a Return to Petition for Stay of Execution in *State v. Jerome Jenkins Jr.*, Op. No. 28089, 2022 WL 1022581 (S.C. S.Ct., Apr. 6, 2022) (Howard's Adv. Sh. No. 12 at 46-71), an Horry county death penalty case on direct appeal, in which the Petitioner seeks a stay to file a petition for writ of certiorari in the United States Supreme Court.

5. I am currently working on the Return and Memorandum of Law in Support of Summary Judgment in *Al Martinez Green, # 359254 v. Warden Jackson*, C/A No. 1:22-1175-SAL-SVH, a federal habeas corpus action in which the Petitioner seeks relief from his Lancaster County murder conviction.

WHEREFORE, the undersigned counsel would respectfully request a thirty (30) day extension until **July 14, 2022**, in which to file the initial brief of appellant and designation of matter in this case based upon the above exigent circumstances.

Respectfully Submitted,

ALAN WILSON
Attorney General of South Carolina

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
S.C. Bar No. 14244

WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General

S.C. Bar No. 4806
Office of the Attorney General
Post Office Box 11549

Columbia, SC 29211-1549
(803) 734-6305

June 14, 2022.

BY: s/William Edgar Salter, III
WILLIAM EDGAR SALTER, III
ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
Jun 14 2022
SC Court of Appeals

Appeal from Lexington County

G. Thomas Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JASON DONN LEE,

APPELLANT.

PROOF OF SERVICE

I, William Edgar Salter, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the First Extension to file the Initial Brief of Respondent & Designation of Matter, and Proof of Service have been forwarded to Appellant's counsel, David Alexander, Esq., via email today, June 14, 2022 to dalexander@sccid.sc.gov, and Mr. Alexander's legal assistant, Lindsey Matthews to lmattthews@sccid.sc.gov.

I further certified that all parties required by Rule to be served have been served.

This 14 day of June 2022.

s/William Edgar Salter, III
William Edgar Salter, III
Senior Assistant Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

Brandy Rankin

From: Brandy Rankin
Sent: Tuesday, June 14, 2022 1:32 PM
To: dalexander@sccid.sc.gov
Cc: Ed Salter; Matthews, Lindsey
Subject: First Extension to file Initial Brief and Designation of Matter - Jason Donn Lee, 2019-001977
Attachments: First Motion for Extension, Cover Letter, Cert of Service, 6-14-22, Jason Donn Lee (03012906xD2C78).pdf
Follow Up Flag: Worldox

Dear Mr. Alexander,

Please find attached the Respondent's first Motion for Extension to file the Initial Brief and Designation of Matter. These documents will be filed today, June 14, 2022, with the South Carolina Court of Appeals.

Have a great day!

Sincerely,

Brandy Rankin

Brandy Rankin, Legal Assistant
Office of the South Carolina Attorney General
Capital Litigation | Office 803-734-6305 |
P.O. Box 11549 | Columbia, SC 29211
BrandyRankin@scag.gov



This email, along with any attachments, is considered confidential and may be legally privileged. If you have received it in error please notify the sender immediately by reply email and then delete this message from you system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. This email, and attachments, are subject to FOIA requests. Thank you for your cooperation.



RECEIVED

Jun 14 2022

SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

June 14, 2022
(via electronic submission only)

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia South Carolina 29211

Re: The State v. Jason Donn Lee
Appellate Case No. 2019-001977

Dear Ms. Kitchings:

The Initial Brief of Respondent & Designation of Matter in the above appeal is due to be served and filed on tomorrow, June 15, 2022. However, due to other professional obligations, I have not had sufficient time to prepare and complete the brief for filing. Therefore, enclosed, please find the Respondent's First Motion for Extension of thirty (30) days in which to file the brief. Opposing counsel has consented to all extension requests through June 30, 2022.

Sincerely,

s/William Edgar Salter, III
William Edgar Salter, III
Assistant Attorney General
S.C. Bar No. 4806

/bbr

cc: David Alexander, Esquire (via e-mail only)