

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**  
**Jul 06 2022**  
**SC Court of Appeals**

Appeal from Horry County

Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CLAYBON LEWIS ATWATER, JR.

APPELLANT

APPELLATE CASE NO. 2021-001320

MOTION FOR AN EXTENSION OF TIME TO  
SERVE AND FILE THE INITIAL BRIEF OF APPELLANT  
AND DESIGNATION OF MATTER OUT OF TIME

Counsel for Claybon Lewis Atwater respectfully requests a thirty (30) day extension until July 27, 2022, in which to serve and file the Initial Brief of Appellant and Designation of Matter out of time in this 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. The Initial Brief of Appellant and Designation of Matter in this case were due to be served and filed June 27, 2022.
2. Due to a clerical error, the first motion was not timely filed.

3. Counsel filed the Petition for Writ of Certiorari to the Court of Appeals in the case of Richard K. Galloway v. The State with the Supreme Court on July 5, 2022. Counsel filed the Johnson Petition in the case of Gary A. White v. The State with the Supreme Court on June 28, 2022. Counsel filed the Brief of Petitioner in the case of Jon Paul Smart v. The State with the Supreme Court on June 16, 2022. Counsel filed the Initial Brief of Appellant and Designation of Matter in the case of Terry Gerrard Gridine v. The State on June 10, 2022. Counsel appeared before the Court of Appeals for Oral Argument in the case of Terrance Goss v. The State on June 8, 2022. Counsel appeared before the Court of Appeals for Oral Argument in the case of Wanda Crumpton v. The State on June 7, 2022. Counsel filed the Petition for Writ of Certiorari to the Court of Appeals in the case of The State v. Eric Emanuel English with the Supreme Court of June 3, 2022.

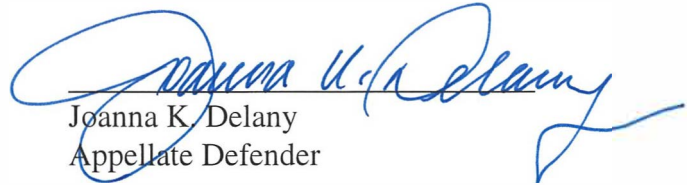
4. This request is made in good faith, and not for purposes of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

5. On June 30, 2022, opposing counsel, the Office of the Attorney General, graciously consented to this extension request by way of general consent granted in writing, by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through July 31, 2022.

WHEREFORE, the undersigned counsel would respectfully request a thirty-day extension from June 27, 2022 until July 27, 2022. Counsel respectfully requests that the time limits for

filing the Initial Brief of Appellant and Designation of Matter be held in abeyance pending a ruling on this motion.

Respectfully submitted,

  
Joanna K. Delany  
Appellate Defender

This 6th day of July, 2022.

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THE STATE,

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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion for Extension in the above-referenced case has been served upon William M. Blich, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 6th day of July, 2022.



Joanna K. Delany  
Appellate Defender

ATTORNEY FOR APPELLANT

**From:** [Warren, Kaylynn](#)  
**To:** [William Blich](#)  
**Cc:** [ccollins@scag.gov](mailto:ccollins@scag.gov); [Delany, Joanna](#)  
**Subject:** 2021-001320 The State v. Claybon Lewis Atwater  
**Date:** Wednesday, July 6, 2022 8:48:00 AM  
**Attachments:** [2021-001320 The State v. Claybon Lewis Atwater, Jr. First Motion Out of Time and COS.pdf](#)

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Good Morning,

Please find attached for service in the above-referenced case the First Motion for an Extension of Time to Serve and File the Initial Brief of Appellant and Designation of Matter Out of Time and accompanying Certificate of Service which will be filed today, July 6, 2022, with the Court of Appeals via email filing.

Respectfully,  
Kaylynn

**Kaylynn Warren**

Administrative Assistant  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
(803) 734-1330