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Aug 11 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
The Honorable Paul M. Burch, Circuit Court Judge

STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

JAMES MONROE BROWN,

APPELLANT.

Appellate Case No. 2021-000469

**MOTION FOR THIRD EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a third thirty (30) day extension in which to file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. Counsel for Appellant has graciously consented to extension requests through August 31, 2022. In support of this motion, counsel would respectfully show the Court the following good cause:

Respondent's Initial Brief of Respondent and Designation of Matter is due to be filed tomorrow, Friday, August 12, 2022. The undersigned attorney has had a number of state, and federal matters to attend to since July 12, 2022. Specifically:

1. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Manuel A. Marin, #343371 vs. Warden of Lieber Correctional Institution, C/A No. 2:22-00351-DCC-MGB on **July 15, 2022**;

2. Counsel for Respondent had a pre-planned, out of state vacation, and was out of the office from **Monday, July 11, 2022**, and returned to the office on **Monday, July 18, 2022**;

3. Counsel filed the Respondent's Reply to Objection to Report and Recommendation [ECF #36] in the matter of Gussie Henry Hilton, Jr. vs. Warden, Broad River Correctional Institution, C/A No. 0:21-3646-JD-PJG on **July 18, 2022**;

4. Counsel filed the Appellees/Respondents' Motion to Grant IT Access to Unredacted & Sealed Joint Appendix Volume II in the capital matter of Stephen C. Stanko vs. Bryan Stirling, et al., No. 22-2, a capital federal habeas matter now pending in the United States Court of Appeals for the Fourth Circuit on **July 21, 2022**;

5. Counsel also filed the Appellees/Respondents' Motion to Suspend Briefing Order in the matter of Stephen C. Stanko vs. Bryan Stirling, et al., No. 22-2, a capital federal habeas matter now pending in the United States Court of Appeals for the Fourth Circuit, also on **Thursday, July 21, 2022**;

6. Counsel filed the Respondent's Response to Motion for Reconsideration to Alter/Amend Judgment [ECF #31] in the matter of John Garvin, #355509 vs. Warden LeVern Cohen, C/A No. 2:22-994-DCN-MGB on **August 3, 2022**;

7. On **August 4, 2022** counsel filed the Respondent's Response to Petitioner's Objections to the Report and Recommendation [ECF Nos. 41, 42 & 43] in the matter of Frankie Lee McGee vs. Warden of Lieber Correctional Institution, C/A No. 5:21-2777-RMG-KDW on **August 4, 2022**;

8. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Julia S. Gorman vs. Warden Patricia Yedell, C/A No. 4:22-cv-1036-HMH-TER on **August 8, 2022**;

9. Counsel filed the Appellees/Respondents' Motion to Consolidate or Merge the Two Appeals in the capital matter of Stephen C. Stanko vs. Bryan Stirling, et al., No. 22-2, a capital federal habeas matter now pending in the United States Court of Appeals for the Fourth Circuit on **August 9, 2022**;

10. Counsel also filed the Respondent's Response to Motion for Extension of Time, etc. [ECF #42] in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-1204-TLW-SVH on **August 9, 2022**;

11. Counsel is out of the office today, **August 11, 2022** due to a scheduled medical visit to Duke Medical Center in North Carolina;

12. Counsel is currently preparing the Appellees/Respondents' Response Brief in the matter of Stephen C. Stanko vs. Bryan Stirling, et al., No. 22-2, a capital federal habeas matter now pending in the United States Court of Appeals for the Fourth Circuit;

13. Counsel is also currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-cv-1204-TLW-SVH;

14. Counsel is almost completed with the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of William D. Swaney vs. Jonathan Nance, C/A No. 2:22-1294-JD-MGB. Same will be filed tomorrow, **August 12, 2022**;

15. Counsel has been involved in working **on other matters in state and federal court.**

WHEREFORE, for good cause shown, counsel respectfully requests a third thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter. This request is made in good faith, and not for the purposes of delay. This extension will make Respondent's Initial Brief due September 12, 2022.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

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

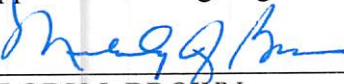
J. ANTHONY MABRY
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By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

August 11, 2022.

I support the finding of good cause.



MELODY J. BROWN,
Senior Assistant Deputy Attorney General

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v.

JAMES MONROE BROWN,

APPELLANT.

Appellate Case No. 2021-000469

PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to J. Anthony Mabry, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Third Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to Appellant's counsel, Robert M. Dudek, Esq., via email today, August 11, 2022 to RDudek@sccid.sc.gov, and to his assistant at lmattthews@sccid.sc.gov.

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

This 11th day of August, 2022.

s/ Donna D'Alessio
Donna D'Alessio, Legal Assistant to
J. Anthony Mabry
Senior Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305

Donna D'Alessio

From: Donna D'Alessio
Sent: Thursday, August 11, 2022 10:04 AM
To: 'rdudek@sccid.sc.gov'; 'lmatthews@sccid.sc.gov'
Subject: Brown, James Monroe - Appellate Case No. 2021-000469 - Third Extension of time to file Initial Brief of Respondent
Attachments: Brown, James M. - Appellate Case No. 2021-000469 - Third Extension of Time to file Initial Brief of Respondent 8-11-22 (03072745xD2C78).pdf

Dear Mr. Dudek:

Attached is a scanned copy of the Respondent's Third Motion for Extension of Time to File Initial Brief of Respondent and Designation of Matter regarding the above matter. The third extension request is being submitted to the South Carolina Court of Appeals through e-filing, along with a copy of this email.

Thank you and hope you are well.

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