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Aug 31 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ON WRIT OF CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas
The Honorable G. Thomas Cooper, Jr., PCR Judge

Appellate Case No. 2019-000549

VICTOR D. SMITH, #348112,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

**MOTION TO RELAX RULE 243(j), SCACR, AND
FILE RESPONDENT'S BRIEF OF RESPONDENT OUT OF TIME
AND RESPONDENT'S FIRST EXTENSION REQUEST**

COMES NOW, Respondent, by and through the undersigned counsel, making its Motion to Relax Rule 243(j), SCACR and File Respondent's Brief of Respondent Out of Time and Respondent's First Extension Request, and would show unto this Court¹:

I.

The Brief of Respondent in the above-captioned matter was due to be filed and served on August 25, 2022. However, due to a calendaring error, the Brief of Respondent was not filed on the above-mentioned due date. Respondent, therefore, requests that the rules be relaxed in order

¹ In compliance with: In Re: Extensions in Criminal and Post-Conviction Relief Cases, (S.C. Sup. Ct. order dated March 18, 2009) (Davis Adv. Sh. No. 13 at 1).

to file a **first** thirty-day extension in which to prepare and submit a Brief of Respondent. See Rule 263(b), SCACR (“The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”).

The undersigned counsel apologizes for any inconvenience this request has caused to the Court and to Petitioner and does not believe this request will result in any prejudice to Petitioner should it be granted. Opposing counsel has to this request via an inter-agency agreement.

II.

WHEREFORE, Respondent respectfully asks that this Court relax the requirements of Rule 243(j), SCACR; permit Respondent to file a request for a first thirty-day extension out of time; grant Respondent’s first extension request; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

BY:



D. Russell Barlow, II
S.C. Bar No. 105228
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

August 31, 2022

ATTORNEYS FOR RESPONDENT

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Certiorari to Richland County
Honorable G. Thomas Cooper, Post-Conviction Relief Judge
Appellate Case No. 2019-000549

VICTOR D. SMITH

Petitioner,

vs.

THE STATE,

Respondent.

PROOF OF SERVICE

I, D. Russell Barlow, II, certify that a true copy of Motion to Relax Rule 243(j), SCACR, and File Respondent's Brief of Respondent Out of Time and Respondent's First Extension Request has been served upon Petitioner by electronically mail a copy to opposing counsel's primary e-mail address as listed in the Attorney Information System (AIS):

Robert M. Dudek, Esquire
rdudek@sccid.sc.gov

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

This 31st day of August, 2022.



D. RUSSELL BARLOW, II
Assistant Attorney General
S.C. Bar No. 105228

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737



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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

August 31, 2022

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
(via e-filing only – ctappfilings@sccourts.org)

RE: Victor D. Smith v. State of South Carolina
Appellate Case No.: 2019-000549

Dear Ms. Kitchings:

Enclosed please find the original of the Motion to Relax Rule 243(j), SCACR, and File Respondent's Brief of Respondent Out of Time and Respondent's First Extension Request, in the above matter for filing in your office. By copy of this letter I am serving opposing counsel with this motion today.

Sincerely,

D. Russell Barlow, II
Assistant Attorney General

DRB/jaj
Enclosures

cc: Robert M. Dudek, Counsel for Petitioner (via email only)