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Oct 12 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Jasper County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DIONTE J'CHON HABERSHAM,

APPELLANT.

APPELLATE CASE NO. 2021-000805

MOTION FOR AN EXTENSION OF TIME IN WHICH
TO FILE THE INITIAL BRIEF OF APPELLANT
AND DESIGNATION OF MATTER

Counsel for Dionte J'Chon Habersham respectfully requests **final extension of four (4) business days, from October 12, 2022 until October 18, 2022**, in which to file the initial brief of appellant and designation of matter in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009, and based on extraordinary circumstances. In support of this request, counsel shows:

1. The initial brief of appellant and designation of matter in this case are due to be served and filed tomorrow, October 12, 2022. The Court has granted counsel five previous extensions.

2. Counsel for Dionte J'Chon Habersham respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Counsel was reading the trial transcript in preparation for writing his initial brief of appellant when it was discovered towards the end of the transcript that additional trial exhibits were necessary for him to review. These video and photographic exhibits were transported from the lower court in Jasper County to the Office of Appellate Defense yesterday by an employee of this office. These additional video and photographic exhibits are necessary for review as they are integral to important legal issues -- most notably a challenge to "scientific evidence" admitted for the state during the trial -- that undersigned counsel intends to raise on appeal to this Court.

3. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.

4. In addition to counsel's work on this murder case, counsel, with co-counsel Kathrine H. Hudgins, is working on the reply brief in the death penalty case of Jerome Jenkins, Jr., v. State, which will be filed with the United States Supreme Court on or before Monday, October 17, 2022. Counsel filed the brief of petitioner in the murder case of The State v. Robert Xavier Geter with the Supreme Court on Friday, October 7, 2022. Counsel also filed the brief of petitioner in the murder case of The State v. Gregg Pickrell with the Supreme Court on Friday, October 7, 2022. Counsel filed the initial brief of appellant and designation of matter in the murder case of The State v. Dae'Kwon Jaheem Simmons with this Court on September 26, 2022. Counsel presented the Case Law Update PowerPoint presentation at the Annual Public Defender Conference, in North Myrtle Beach, South Carolina, on September 19-21, 2022. Counsel filed the reply brief of petitioner in the case of Shana Robinson v. State with this Court on September 16, 2022. Counsel filed the initial brief of appellant and designation of matter in the murder case

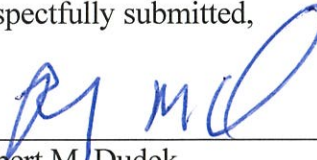
of The State v. Diante Jermaine Willis with this Court on September 9, 2022. Counsel, with co-counsel Kathrine H. Hudgins, filed the petition for writ of certiorari in the death penalty case of State v. Jerome Jenkins, Jr., with the United States Supreme Court on August 31, 2022. Counsel also filed the petition for writ of certiorari in the murder case of Justin Jamal Warner v. State, with the United States Supreme Court on August 26, 2022. **Counsel also has extensive administrative duties as the Chief Appellate Defender.**

5. Counsel makes this request in good faith and not for purpose 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. **Counsel regrets the necessity of this extraordinary extension request but given his current caseload and the fact that justice could not be served without a full review of these additional video and photographic exhibits this final four (4) business day extension is absolutely essential in this murder case wherein appellant has been sentenced to thirty-three (33) years imprisonment.**

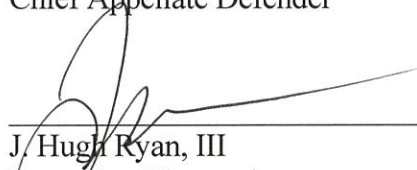
6. Opposing counsel, the Attorney General's Office, has graciously consented to this extension request by way of the extended thirty-day general consent granted by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through October 31, 2022. That extended, emailed general consent was dated September 28, 2022.

WHEREFORE, the undersigned counsel would respectfully request a **final extension of four (4) business days, from October 12, 2022 until Tuesday, October 18, 2022** in which to file the initial brief of appellant and designation of matter in this case based upon the above exigent circumstances. Counsel requests that time limits for filing the brief be held in abeyance pending a ruling on this motion.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender



J. Hugh Ryan, III
Executive Director/
Hervey B. O. Young
Deputy Director and General Counsel/
W. Lawrence Brown
Deputy General Counsel and Training Director

This 12th day of October, 2022.

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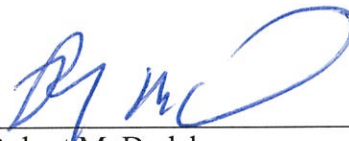
DIONTE J'CHON HABERSHAM,

APPELLANT.

APPELLATE CASE NO. 2021-000805

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy the motion for an extension of time in which to serve and file the initial brief of appellant and designation of matter in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 12th day of October, 2022.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

From: [Matthews, Lindsey](#)
To: [SC - BROWN MELODY](#)
Cc: [SC - BROWN ANGELA](#); [Dudek, Robert](#)
Subject: 2021-000805 The State v. Dionte J'Chon Habersham
Date: Wednesday, October 12, 2022 11:22:00 AM
Attachments: [2021-000805 The State v. Dionte J'Chon Habersham - Motion for Sixth Extension.pdf](#)

Attached is a copy of a motion for sixth extension which will be filed with the Court of Appeals today in the above-referenced case.

Thank you.

Sincerely,
Lindsey M. Matthews
Administrative Assistant
SC Commission on Indigent Defense
Appellate Division
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P.O. Box 11589
Columbia, SC 29201
Phone: (803) 734-1330