

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Florence County
Thomas A Russo, Circuit Court Judge

RECEIVED
JUN 03 2013
SC Court of Appeals

The State of South Carolina,

Respondent,

v.

David Gerrard Johnson,

Appellant.

Appellate Case No: 2012-209267

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

Respondent, the State, moves this Court for an additional thirty (30) day extension of time in which to file the Initial Brief of Respondent and Designation of Matter. This is Respondent's fourth request for an extension of time in which to file the brief. In support of the request, undersigned counsel would respectfully show the Court:

1. Undersigned counsel for Respondent has been scheduled for a number of state and federal matters in the last thirty (30) days, that include, but are not limited to, the following: prepared and filed a reply to response in opposition to motion for summary judgment in another federal habeas actions (*Thomas Evans*); prepared and submitted a proposed order regarding deposition costs in another capital post-conviction relief action (*Steven Bixby*); prepared and filed a return and memorandum of law in support of motion for summary judgment, and a response in opposition to motion for appointment of counsel, in another federal habeas action (*Willie Chapman*); prepared and filed a return to petition for rehearing at the request of this Court in

another non-capital murder direct appeal (*Andre Tayson Boone*); prepared and filed a return to petition for rehearing at the request of this Court in another non-capital murder direct appeal (*Eugene Patterson*); prepared and filed a return to a pending motion for stay of execution and appointment of counsel on an expedited schedule for response in federal District Court in a capital case (*Brad Sigmon*); prepared and filed a reply to response in opposition to motion for summary judgment in another federal habeas action (*Devario M. Simpson*); prepared and filed a return to petition for court to review assignment of PCR judge in the Supreme Court of South Carolina on expedited schedule for response in a capital death penalty case (*William O. Dickerson*); prepared and filed a Final Brief of Respondent in this Court in a non-capital murder direct appeal (*Leonard Goodwin*); prepared and filed a reply to response in opposition to report and recommendation in another federal habeas case (*Charles Upson*); prepared and filed a response in opposition to motion for evidentiary hearing in one of the above listed federal habeas cases (*Devario M. Simpson*); prepared and filed an objection to report and recommendation in another federal habeas case (*Thomas Evans*); prepared and served upon opposing counsel supplemental responses to standard interrogatories and request to produce in one of the above referenced capital post-conviction relief cases (*William O. Dickerson*); and, prepared and filed a return and memorandum of law in support of motion for summary judgment and motion to dismiss without prejudice for failure to exhaust available state remedies in another federal habeas action (*Conrad Lamont Slocumb*). Counsel is also presently preparing for oral argument in this Court on Tuesday, June 4, 2013 in a non-capital murder direct appeal (*Rashaun Sobers*), and is preparing a response in opposition to motion for *ex parte* and *in camera* proceedings in one of the above listed capital post-conviction relief cases (*William O. Dickerson*).

2. Due to her heavy case load, undersigned counsel for Respondent has not been able, in a timely fashion, to complete the initial brief in this appeal.

3. This is the fourth request for an extension of time in which to file a response.

4. Undersigned counsel is cognizant of the fact that this is a fourth extension request and will work diligently to complete the responsive brief within the time requested in this motion.

THEREFORE, undersigned counsel for Respondent respectfully requests an additional extension of thirty (30) days to complete the Initial Brief of Respondent and Designation of Matter.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

MELODY J. BROWN
Senior Assistant Attorney General

BY: 

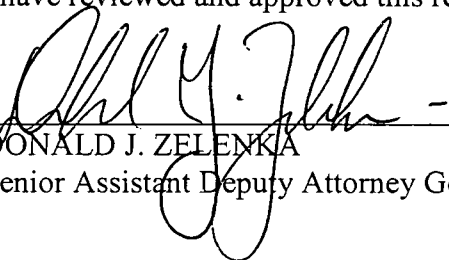
MELODY J. BROWN
S.C. Bar No. 14244

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR RESPONDENT

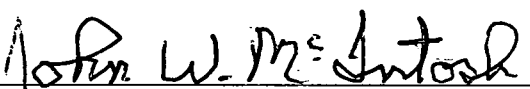
[Direct Supervisor and Chief Deputy signatures on next page]

I have reviewed and approved this request.



DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

I have reviewed and approved this request.



JOHN W. MCINTOSH
Chief Deputy Attorney General

June 3, 2013.
Columbia, South Carolina.

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Florence County
Thomas A. Russo, Circuit Court Judge

The State of South Carolina,

v.

David Gerrard Johnson,

Appellate Case No: 2012-209267

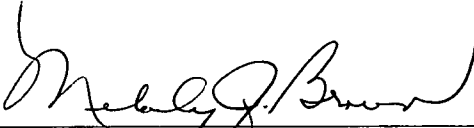
RECEIVED
Respondent, JUN 03 2013
SC Court of Appeals
Appellant.

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served Respondent's Motion for a Fourth Extension of Time on counsel for Appellant, by depositing one copy of same in the United States mail, postage prepaid, to counsel for appellant, addressed as follows:

Susan B. Hackett, Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

This 3rd day of June, 2013.



MELODY J. BROWN
S.C. Bar No. 14244

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT



ALAN WILSON
ATTORNEY GENERAL

June 3, 2013

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

Re: The State v. David Gerrard Johnson
Appeal from Florence County
Appellate Case No. 2012--209267

Dear Ms. Kitchings:

Enclosed please find the original and one (1) copy of the Respondent's Motion for Fourth Extension of Time to file Initial Brief of Respondent and Designation of Matter, dated, together with a Proof of Service in the above-referenced matter.

Thank you for your assistance in this matter. Please call this office if you need any additional information.

Sincerely,

Melody J. Brown
Senior Assistant Attorney General

RECEIVED
JUN 03 2013
SC COURT OF APPEALS

MJB/mv

Enclosures

cc: Susan B. Hackett, Appellate Defender