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Dec 12 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

On Certiorari to Spartanburg County
Court of Common Pleas
The Honorable G. Thomas Cooper, Jr., Post-Conviction Relief Judge
The Honorable R. Keith Kelly, Plea Court Judge

Appellate Case No. 2020-000882

FRANCISCO R. RODRIGUEZ,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

**MOTION FOR EXTENSION TO FILE BRIEF OF
RESPONDENT AND MOTION TO FILE OUT OF TIME**

Respondent, through its undersigned counsel, moves this Court, out of time, for a second thirty-day extension of time to file the Brief of Respondent, up to and including December 21, 2022. In support of the requested, undersigned counsel would respectfully show unto this Court:

1. The Brief of Respondent was due to be filed with this Court and served on November 21, 2022. This Court has granted Respondent's previous first thirty-day extension request. Due to undersigned counsel's inadvertence, the Brief was not filed on the above-mentioned due date.
2. During an audit on today's date of undersigned counsel's appellate matters, she realized she had not submitted the Brief, nor requested an extension for submission and filing of the Brief of Respondent.

3. Pursuant to Rule 263, SCACR, Respondent respectfully requests that the rules be relaxed in order to file a second thirty-day extension in which to prepare and submit the 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.”).
4. Undersigned counsel submits this extension request is supported by the above-referenced circumstances and is not intended for purposes of delay.

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

Respectfully submitted,

ALAN WILSON
Attorney General

SAMANTHA J. WEIDAUER
Assistant Attorney General
S.C. Bar # 104883

P.O. Box 11549
Columbia, S.C. 29211
(803) 734-3737

By: *s/ Samantha J. Weidauer*
SAMANTHA J. WEIDAUER

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PROOF OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Motion for Extension to File Brief of Respondent and Motion to File Out of Time has been served upon opposing counsel by sending to opposing counsel's primary e-mail address as listed in the Attorney Information System (AIS):

Kathrine Hudgins, Esquire
khudgins@sccid.sc.gov

This 12th day of December, 2022.

s/ Samantha Weidauer

Samantha J. Weidauer
Assistant Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
sammieweidauer@scag.gov



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ALAN WILSON
ATTORNEY GENERAL

December 12, 2022

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

Re: Francisco R. Rodriguez v. State of South Carolina
Appellate Case No: 2020-000882

Dear Ms. Kitchings:

Respondent's Brief of Respondent in the above-referenced post-conviction relief appeal was due to be served and filed on November 21, 2022. Enclosed please find Respondent's Motion for Extension to File Brief of Respondent and Motion to File Out of Time.

Please let me know if I can provide the Court with any additional information regarding the enclosed motion.

Sincerely,

s/ Samantha J. Weidauer

Samantha J. Weidauer
Assistant Attorney General
SC Bar No. 104833

cc: Kathrine Hudgins, Counsel for Petitioner (*via email only*)