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Dec 13 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

On Certiorari to Allendale County
Court of Common Pleas
The Honorable Diane Schafer Goodstein, Post-Conviction Relief Judge

Appellate Case No. 2019-000230

DEREK MANER,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

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

Respondent, through its undersigned counsel, moves this Court, out of time, for a thirty-day extension of time to file the Brief of Respondent, up to and including January 3, 2023¹. 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 December 2, 2022. Due to undersigned counsel's inadvertence, the Brief was not filed on the above-mentioned due date.

¹ January 2, 2023, is a Monday and a state holiday.

2. On December 9, 2022, undersigned counsel submitted a first extension request to this court, believing the Brief of Respondent due on that date due to a calendaring error.
3. Respondent did not notice this error had occurred until, during an audit of undersigned counsel's appellate matters, on today's date, she realized she had not timely moved for a motion for extension of time to file the Brief of Respondent.
4. Pursuant to Rule 263, SCACR, Respondent respectfully requests that the rules be relaxed in order to file a first 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.").
5. Undersigned counsel submits this extension request is supported by the above-referenced circumstances and is not intended for purposes of delay.
6. 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.

WHEREFORE, Respondent respectfully asks that this Court relax the requirements of Rule 243(g), SCACR; permit Respondent to file a request for a first thirty-day extension out of time; grant Respondent's request for a first 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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STATE OF SOUTH CAROLINA,

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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 Respondent's Motion to Relax Rule 243(g), SCACR, and File Respondent's First Extension Request Out of Time and Motion for Extension of Time to File Brief of Respondent 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 13th day of December, 2022.

s/ Samantha Weidauer

Samantha J. Weidauer
Assistant Attorney General
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(803) 734-3737
sammieweidauer@scag.gov



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SC Court of Appeals

ALAN WILSON
ATTORNEY GENERAL

December 13, 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: Derek Maner v. State of South Carolina
Appellate Case No: 2019-000230

Dear Ms. Kitchings:

Respondent's Brief of Respondent in the above-referenced post-conviction relief appeal was due to be served and filed on December 2, 2022. Enclosed please find Respondent's Motion to Relax Rule 243(g), SCACR, and File Respondent's First Extension Request Out of Time and Motion for Extension of Time to File Brief of Respondent.

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)