

RECEIVED
Dec 14 2022
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County

Honorable Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH TYRONNE WHERRY,

APPELLANT.

APPELLATE CASE NO. 2022-000453

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

The undersigned counsel respectfully requests a thirty-day extension **from December 14, 2022 until January 13, 2023**, in which to file the initial brief of appellant and designation of matter in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. The initial brief of appellant and designation of matter in this case are due to be served and filed today, December 14, 2022, having been extended by three prior orders of this Court.

2. Counsel will file the Petition for Writ of Certiorari and the Appendix in the case of Marcus McFadden v. The State with the Supreme Court today, December 14, 2022. Counsel will file

the Brief of Respondent in the case of John Perry v. The State with the Supreme Court tomorrow, Thursday, December 15, 2022. Counsel filed the Petition for Writ of Certiorari to the Court of Appeals and the Appendix in the case of Malette Denise Kimbrough v. The State with the Supreme Court on Thursday, December 1, 2022. Counsel filed the Initial Brief of Appellant and Designation of Matter in the case of The State v. Donovan Brannon with this Court on Friday, November 18, 2022. Counsel filed the Brief of Respondent in the case of The State v. Robert Xavier Geter with the Supreme Court on November 14, 2022. Counsel, with co-counsel Kathrine Haggard Hudgins, filed the Motion for Stay of Execution and for the Appointment of a Post-Conviction Relief Judge in the case of The State v. Jerome Jenkins, Jr. with the Supreme Court on Thursday, November 10, 2022. Counsel, with co-counsel David Alexander and Lara M. Caudy, filed the brief of petitioner in the death penalty case of Marion Alexander Lindsey v. The State with the Supreme Court on November 4, 2022. Counsel filed the petition for writ of certiorari in the case of David M. Dixon v. The State with the Supreme Court on October 31, 2022. Counsel filed the initial brief of appellant and designation of matter in the case of The State v. Dionte J'Chon Habersham with this Court on October 18, 2022. Counsel, with co-counsel Kathrine H. Hudgins, filed the reply brief in the death penalty case of Jerome Jenkins, Jr., v. State, with the United States Supreme Court on October 17, 2022. **Counsel also has extensive administrative duties as the Chief Appellate Defender.**

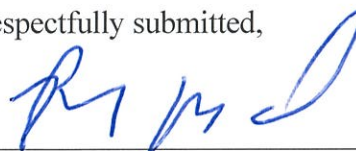
3. This request is made in good faith, and not for purposes of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

4. Opposing counsel, the Office of the Attorney General, 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 December 31, 2022. That extended, emailed general consent was dated November 29, 2022.

WHEREFORE, the undersigned counsel would respectfully request a thirty-day extension **from December 14, 2022 until January 13, 2023**. Counsel respectfully requests that the time limits for filing the initial brief of appellant and designation of matter be held in abeyance pending a ruling on this motion.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

This 14th day of December, 2022.

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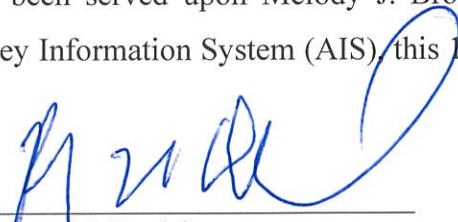
KENNETH TYRONNE WHERRY,

APPELLANT.

APPELLATE CASE NO. 2022-000453

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 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 14th day of December, 2022.


Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT.

From: [Warren, Kaylynn](#)
To: [SC - BROWN MELODY](#)
Cc: [Dudek, Robert](#); [Angela Brown](#)
Subject: 2022-000453 The State v. Kenneth Tyrone Wherry
Date: Wednesday, December 14, 2022 10:32:00 AM
Attachments: [2022-000453 The State v. Kenneth Tyrone Wherry Fourth Motion for Extension and COS.pdf](#)

Good Morning,

Please find attached for service in the above-referenced case the Fourth Motion for an Extension of Time and accompanying Certificate of Service which will be filed today, December 14, 2022, with the Court of Appeals via email filing.

Respectfully,

Kaylynn

Kaylynn Warren

Administrative Assistant

South Carolina Commission on Indigent Defense

Division of Appellate Defense

(803) 734-1330