

RECEIVED
Dec 19 2022
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Hampton County

R. Lawton McIntosh, Circuit Court Judge

JAMES A. GARDNER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-000192

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

Counsel for James A. Gardner respectfully requests a **final thirty (30) day extension from December 19, 2022 until January 18, 2023**, in which to serve and file the brief of petitioner in this case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a third request for an extension. In support of this request, counsel shows:

1. The Brief of Petitioner in this case is due to be served and filed today.
2. Counsel filed the Brief of Respondent in the murder case of John Perry v. The State with the Supreme Court on December 15, 2022. Counsel filed the Petition for Writ of

Certiorari and the Appendix in the case of Marcus McFadden v. The State with the Supreme Court on December 14, 2022. Counsel is assisting his death penalty client Jerome Jenkins with his transition into post-conviction relief after the Supreme Court, on December 14, 2014, granted counsel's motion for a stay of execution and to appoint a PCR judge. Counsel filed the Petition for Writ of Certiorari to the Court of Appeals and the Appendix in the murder 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 murder case of The State v. Donovan Brannon with this Court on Friday, November 18, 2022. Counsel filed the Brief of Respondent in the murder case of The State v. Robert Xavier Geter with the Supreme Court on November 14, 2022. Counsel filed the Motion for Stay of Execution and for the Appointment of a Post-Conviction Relief Judge in the death penalty 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 murder case of The State v. Dionte J'Chon Habersham with this Court on October 18, 2022. **Counsel also has extensive administrative duties as the Chief Appellate Defender.**

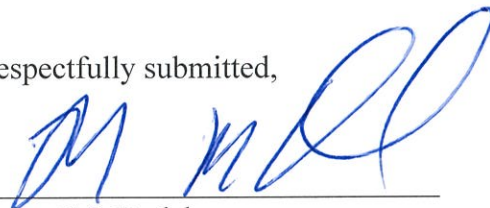
3. This request is made in good faith, and not for purposes of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be

requested.

4. On November 29, 2022, opposing counsel, the Office of the Attorney General, graciously consented to this extension request by way of general consent granted in writing, by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through December 31, 2022.

WHEREFORE, the undersigned counsel would respectfully request a **final thirty-day extension from December 19, 2022 until January 18, 2023**. Counsel respectfully requests that the time limits for filing the Brief of Petitioner be held in abeyance pending a ruling on this motion.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender

This 19th day of December, 2022.

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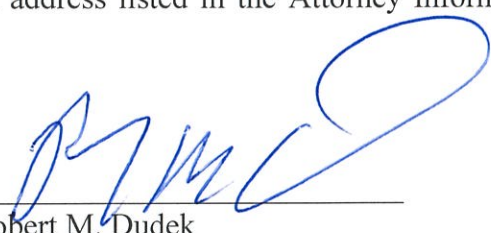
STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-000192

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion for Extension in the above-referenced case has been served upon Samantha Weidauer, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 19th day of December, 2022.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

From: [Warren, Kaylynn](#)
To: [Sammie Weidauer](#)
Cc: [Dudek, Robert](#); [Jennifer Jennison](#)
Subject: 2019-000192 James A. Gardner v. The State
Date: Monday, December 19, 2022 8:56:00 AM
Attachments: [2019-000192 James A. Gardner v. The State Third Motion for Extension and COS.pdf](#)

Good Morning,

Please find attached for service in the above-referenced case the Third Motion for Extension and Certificate of Service which will be filed today, December 19, 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