

**RECEIVED**

**Jan 10 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Aiken County  
The Honorable Courtney Clyburn-Pope, Circuit Court Judge

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THE STATE,

RESPONDENT,

v.

DAE' KWON JAHEEM SIMMONS,

APPELLANT.

Appellate Case No. 2021-000802

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

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The undersigned counsel would respectfully request a third thirty (30) day extension in which to file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. Counsel for Appellant has graciously consented to extension requests through January 31, 2023. In support of this motion, counsel would respectfully show the Court the following good cause:

Respondent's Initial Brief of Respondent and Designation of Matter is due to be filed on Wednesday, January 11, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since December 9, 2022. Specifically:

1. Counsel filed the Return to Petition for Writ of Certiorari in the matter of Clinton Folkes vs. Warden Nelson, Case No. 22-5545, a Richland County Federal Habeas matter now pending in the United States Supreme Court on Monday, December 12, 2022;

2. Counsel also filed the Respondent's Reply to Petitioner's Objections to Report and Recommendation [ECF #42] in the matter of Brent McLaurin, Jr. vs. Warden McCormick Correctional Institution, C/A No. 6:21-03936-JFA on December 14, 2022;

3. Counsel was out of the office on sick leave from Monday, December 19, 2022 through Wednesday, December 21, 2022;

4. The Office of the Attorney General was closed for the Holidays on Friday, December 23, 2022, Monday, December 26<sup>th</sup> and Tuesday, December 27, 2022;

5. Counsel filed the Respondent's Response in Opposition to Petitioner's Motion to Reconsider [ECF #30] in the matter of Darrell L. Goss, Sr., #305517 vs. Warden Shane D. Jackson, C/A No. 2:22-00103-BHH-MGB on December 28, 2022;

6. Counsel also filed on December 28, 2022 the Respondent's Response in Opposition to Petitioner's Motions to Amend His Petition [ECF #s 43 & 44] in the matter of Brent McLaurin, Jr. vs. Warden McCormick Correctional Institution, C/A No. 6:21-03936-JFA;

7. Counsel prepared and filed the Initial Brief of Respondent in the matter of The State vs. Jonathan R. Rackley, Appellate Case No. 2021-001141, a Pickens County direct appeal matter now pending before the South Carolina Court of Appeals on January 3, 2023;

8. Counsel is currently preparing the Brief of Respondent in the matter of Abdiyyah Ben Alkebulanyahh aka Tyree Roberts vs. State of South Carolina, a Beaufort County Death Penalty Post-Conviction Relief matter now pending in the South Carolina Supreme Court. Same is due to be filed on Friday, January 13, 2023; and

9. Counsel has been involved in working **on other matters in state and federal court.**

WHEREFORE, for good cause shown, counsel respectfully requests a third thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter. This request is made in good faith, and not for the purposes of delay. This extension will make Respondent's Initial Brief due on February 10, 2023.

Respectfully Submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General  
S.C. Bar No. 14244

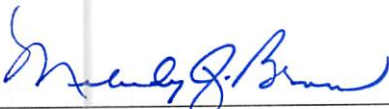
W. JOSEPH MAYE  
Assistant Attorney General  
S.C. Bar No. 100851

Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-6305

By: s/W. Joseph Maye  
W. JOSEPH MAYE  
ATTORNEYS FOR RESPONDENT

January 10, 2023.

I support the finding of good cause.



MELODY J. BROWN,  
Senior Assistant Deputy Attorney General

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**PROOF OF SERVICE**

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I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to W. Joseph Maye, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Third Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to Appellant's counsel, Robert M. Dudek, Esq., via email today, January 10, 2023 to [RDudek@sccid.sc.gov](mailto:RDudek@sccid.sc.gov) and to his assistant [kwarren@sccid.sc.gov](mailto:kwarren@sccid.sc.gov).

I further certify that all parties required by Rule to be served have been served.

This 10<sup>th</sup> day of January, 2023.

s/ Donna D'Alessio  
Donna D'Alessio, Legal Assistant to  
W. Joseph Maye,  
Assistant Attorney General  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-6305

## Donna D'Alessio

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**From:** Donna D'Alessio  
**Sent:** Tuesday, January 10, 2023 2:26 PM  
**To:** RDudek@sccid.sc.gov  
**Cc:** kwarren@sccid.sc.gov  
**Subject:** Simmons, Dae'Kwon J. - Appellate Case No. 2021-000802 - Motion for third extension of time to file Initial Brief of Respondent  
**Attachments:** Simmons, Dae'Kwon J. - Appellate Case No. 2021-000802 - Motion for Third Extension of Time to file IBOR 1-10-23 (03191762xD2C78).pdf

Dear Mr. Dudek:

Attached is a scanned copy of the Respondent's Motion for a Third Extension of time to file Initial Brief of Respondent and Designation of Matter regarding the above case. The Third Extension to file Initial Brief of Respondent is being submitted to the South Carolina Court of Appeals through e-filing, along with a copy of this email.

Thank you.

Donna D'Alessio,  
Legal Assistant  
Office of the Attorney General  
State of South Carolina  
Post Office Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-6305