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Feb 06 2023

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from Barnwell County  
The Honorable Edward W. Dickson, trial Judge  
The Honorable William P. Keesley, PCR Judge

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DEXTER B. BROWN, II,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

Appellate Case No. 2022-000920

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**MOTION FOR FOURTH EXTENSION OF TIME TO FILE  
RESPONDENT'S RETURN TO PETITION FOR WRIT OF  
CERTIORARI AND RETURN TO PETITION FOR WRIT OF  
CERTIORARI PURSUANT TO *AUSTIN V. STATE***

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The undersigned counsel would respectfully request a fifteen (15) day extension in which to file the Return to Petition for Writ of Certiorari in the above-referenced case. The Return is currently due to be filed today, Monday, February 6, 2023. Counsel for Petitioner has graciously consented to this extension request. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

Respondent's Return to Petition for Writ of Certiorari and Return to Petition for Writ of Certiorari Pursuant to *Austin v. State* is due to be filed today, Monday, February 6, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since January 6, 2023. Specifically:

1. The Office of the Attorney General was closed for the Holiday on Monday, January 16, 2023 for Dr. Martin Luther King, Jr.'s birthday, and counsel was out of the office on February 1, 2023 for an appointment at Duke Medical Center for a follow-up due to heart and kidney transplants.

2. Counsel prepared and filed the Initial Brief of Respondent in the matter of The State vs. James Lee Ginther, Appellate Case No. 2019-000672 (murder), a Sumter County direct appeal matter on **January 3, 2023**;

3. Counsel also prepared and filed the Return to Petition for Writ of Certiorari in the matter of The State vs. Nicholas B. Chhith-Berry, Appellate Case No. 2019-000352 (murder), a Lexington County direct appeal matter now pending in the South Carolina Supreme Court on **January 9, 2023**;

4. Counsel filed the Respondent's Reply to Response to Motion for Summary Judgment [ECF #92] in the matter of Arthur L. Singleton, #300109 v. Warden of Lee Correctional Institution, C/A No. 9:18-3300-SAL-MHC on **January 17, 2023**;

5. Counsel filed the Respondent's Response to Objections to Report and Recommendation in the matter of Mike T. Salley, #339340 vs. Warden Wallace, Kirkland Correctional Institution, C/A No. 2:21-03457-RMG-MGB on **January 19, 2023**;

6. Counsel also filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #58] in the matter of John Garvin, #355509 vs. Warden LeVern Cohen, C/A No. 2:22-994-DCN-MGB on **January 23, 2023**;

7. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Mildred Monica Montgomery vs. Warden of Leath Correctional, C/A No. 8:22-03004-TMC-JDA on **January 27, 2023**;

8. Counsel filed the Respondents/Appellees' Response to Petitioner/Appellant's Emergency Motion to Extend Date for Filing Opening Brief and Joint Appendix in the United States Court of Appeals for the Fourth Circuit in the matter of Stephen C. Stanko vs. Bryan P. Stirling, Director, South Carolina Department of Corrections, and Lydell Chestnut, Deputy Warden of Broad River Correctional Secure Facility, No. 22-3 on **January 31, 2023**;

9. Counsel also filed the Respondent's Response to Motion for a Declaratory Judgment and Motion to Hold in Abeyance All Motions Until the Court Rules of Respondent's Motion for Summary Judgment [ECF #63] in the matter of John Garvin, #355509 vs. Warden LeVern Cohen, C/A No. 2:22-994-DCN-MGB on **February 2, 2023**;

10. Counsel is also currently preparing the Initial Brief of Respondent and Designation of Matter in the matter of The State vs. Tashonby P. Wilson, 2019-000749, a Lexington County direct appeal now pending in the South Carolina Court of Appeals;

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

12. Counsel has requested an exhibit from the Solicitor's Office [911 call] that needs to be reviewed before completion of the brief, and counsel has not received the exhibit yet;

WHEREFORE, for good cause shown, counsel respectfully requests a fourth fifteen (15) day extension of time to serve and file the Return to Petition for Writ of Certiorari and Return to Petition for Writ of Certiorari pursuant to *Austin v. State*. This request is made in good faith, and not for the purposes of delay. This extension will make Respondent's Return due Tuesday, February 21, 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

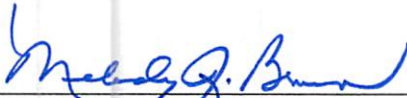
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By: s/J. Anthony Mabry  
J. ANTHONY MABRY  
ATTORNEYS FOR RESPONDENT

February 6, 2023.

I support the finding of extraordinary circumstances.



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MELODY J. BROWN,  
Senior Assistant Deputy Attorney General

I further support the finding of extraordinary circumstances.



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W. JEFFREY YOUNG,  
Chief Deputy Attorney General