

RECEIVED

Feb 17 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from York County

William A. McKinnon, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

TERRY SHAIMEK TYLER,

APPELLANT.

APPELLATE CASE NO. 2021-001316

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

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Counsel for Terry Shaimek Tyler respectfully requests a **fifth and final ten (10) day extension from February 17, 2023 until February 27, 2023**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a fifth request for an extension. In support of this request, counsel shows:

1. The Initial Brief of Appellant and Designation of Matter in this case are due to be served and filed with the Court today.

2. Counsel for Terry Shaimek Tyler respectfully submits that extraordinary

circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage her caseload, counsel hopes that no further extension requests will be required. **In support of this request Counsel submits that this is a highly unusual case in which Appellant allegedly committed the crimes when he was only sixteen-years-old. The sentencing issues raised included, but were not limited to, that the sentence violated the holding of Graham v. Florida, 560 U.S. 48 (2010), that the sentence constituted cruel and unusual punishment under the Eighth and Fourteenth Amendments of the United States Constitution and Article I, Section 15 of the South Carolina Constitution, that the sentence violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and that the sentence was not proportional under a traditional Eighth Amendment analysis. Counsel has been extensively researching these legal issues and needs the requested additional time to do justice to this case. Counsel will file the initial brief of appellant prior to the deadline if possible.**

3. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Charles Bridges v. The State with the Supreme Court on February 16, 2023. Counsel filed the Brief of Petitioner in the case of Devatee Clinton v. The State with this Court on February 8, 2023. Counsel filed the Initial Brief of Appellant and Designation of Matter in the case of Samir Kevin Shank v. The State with this Court on February 2, 2023. Counsel filed the *Anders* Brief of Appellant and the Record on Appeal in the case of the State v. Bobby Ray McClure, Jr. with this Court on January 30, 2023. Counsel filed the Reply to Return to Petition for Writ of Certiorari Pursuant to Mack v. State in the case of John Willie Mack, Sr. v. The State with this Court on

January 13, 2023. Counsel filed the Johnson Petition for Writ of Certiorari and Appendix in the case of Samuel Jeter v. The State with the Supreme Court on January 6, 2023.

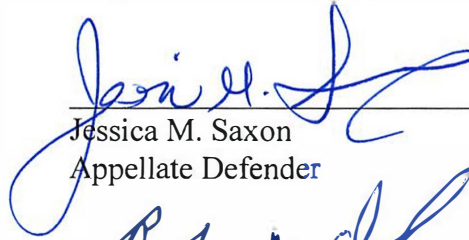
4. Counsel makes this request in good faith and not for purpose of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

5. On February 1, 2023, 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 February 28, 2023.

WHEREFORE, the undersigned counsel would respectfully request a **fifth and final ten (10) day extension from February 17, 2023 until February 27, 2023**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in this case based upon the above exigent circumstances.

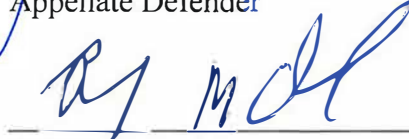
**\*\*SIGNATURE PAGE TO FOLLOW\*\***

Respectfully submitted,



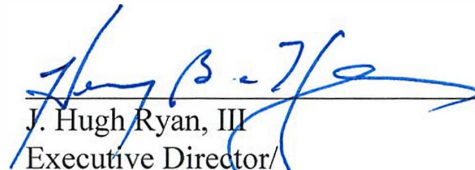
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Jessica M. Saxon  
Appellate Defender



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Robert M. Dudek  
Chief Appellate Defender



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J. Hugh Ryan, III  
Executive Director/  
Hervey B. O. Young  
Deputy Director and General Counsel/  
W. Lawrence Brown  
Deputy General Counsel and Training Director

This 17th day of February, 2023.

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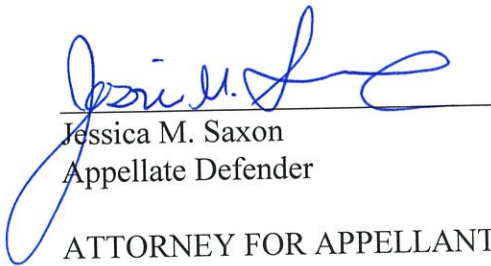
APPELLATE CASE NO. 2021-001316

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CERTIFICATE OF SERVICE

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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 William M. Blich, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 17th day of February, 2023.

  
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Jessica M. Saxon  
Appellate Defender

ATTORNEY FOR APPELLANT

**From:** [Warren, Kaylynn](#)  
**To:** [William Blich](#)  
**Cc:** [Saxon, Jessica](#); [Caroline Collins](#)  
**Subject:** 2021-001316 The State v. Terry Shaimek Tyler  
**Date:** Friday, February 17, 2023 9:49:00 AM  
**Attachments:** [2021-001316 The State v. Terry Shaimek Tyler Fifth Motion for Extension and COS.pdf](#)

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Good Morning,

Attached for service in the above-referenced case is the Fifth Motion for an Extension of time and accompanying Certificate of Service which will be filed today, February 17, 2023, with the Court of Appeals via OneDrive.

Respectfully,  
Kaylynn

**Kaylynn Warren**

Administrative Assistant  
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
(803) 734-1330