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**Mar 02 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Lexington County  
The Honorable Walton J. McLeod, IV, Circuit Court Judge  
\_\_\_\_\_

THE STATE,

RESPONDENT,

v.

DONOVAN TIRRELL BRANNON,

APPELLANT.

Appellate Case No. 2022-000015

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

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. The Initial Brief is currently due to be filed tomorrow, Friday, March 3, 2023. Counsel for Appellant has graciously consented to extension requests through March 31, 2023. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

Respondent's Initial Brief of Respondent and Designation of Matter is due to be filed tomorrow, Friday, March 3, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since January 31, 2023. Specifically:

1. 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;

2. 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; and the Office of the Attorney General was closed on Monday, February 20, 2023 for the holiday;

3. Counsel 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;

4. Counsel filed the Return to Petition for Writ of Certiorari in the matter of Dexter B. Brown, II vs. State of South Carolina, Appellate Case No. 2022-000920, a Barnwell County post-conviction relief appeal now pending in the South Carolina Supreme Court on **February 21, 2023;**

5. Counsel filed the Respondent's Response to Text Order ECF #65 – Supplemental Briefing in the matter of John Garvin, #355509 vs. Warden LeVern Cohen, C/A No. 2:22-994-DCN-MGB on March 1, 2023;

6. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Rodney Galimore vs. Warden J. Nace, C/A No. 5:22-cv-3541-SAL-KDW, which is currently due to be filed tomorrow, Friday, **March 3, 2023;**

7. Counsel is also preparing the Initial Brief of Respondent and Designation of Matter in the matter of State of South Carolina vs. Tashonby P. Wilson, Appellate Case No. 2019-000749, a Lexington County direct appeal matter; and

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

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 April 3, 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

J. ANTHONY MABRY  
Senior Assistant Attorney General  
S.C. Bar No. 11973

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

March 2, 2023.

I support the finding of extraordinary circumstances.



MELODY J. BROWN,  
Senior Assistant Deputy Attorney General

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\_\_\_\_\_  
**PROOF OF SERVICE**  
\_\_\_\_\_

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to J. Anthony Mabry, 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, March 2, 2023 to [RDudek@sccid.sc.gov](mailto:RDudek@sccid.sc.gov), and to his assistant at [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 2<sup>nd</sup> day of March, 2023.

*s/ Donna D'Alessio*

Donna D'Alessio, Legal Assistant to  
J. Anthony Mabry  
Senior Assistant Attorney General  
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