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Mar 27 2023

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

Certiorari to Spartanburg
The Honorable Paul M. Burch, Circuit Court Judge

MARION ALEXANDER LINDSEY,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

Appellate Case No. 2019-001271

**MOTION FOR FIFTH EXTENSION OF TIME TO FILE
BRIEF OF RESPONDENT**

The undersigned counsel would respectfully request a fifteen (15) day extension in which to file the Brief of Respondent in the above-referenced case. Counsel for Petitioner has consented to all extension request through March 31, 2023. In support of this motion, counsel would respectfully show the Court the following:

1. The Brief of Respondent is due today, March 27, 2023 as per this Court's Order dated March 7, 2023 granting Respondent's fourth extension request.
2. Undersigned counsel has had a number of other state and federal matters to complete since February, many of those matters in capital cases, such as: counsel prepared and filed a status report on February 9, 2023, in a capital federal habeas action (*Bobby Wayne Stone*), and has worked on matters related to an intellectual disability claim in that inmate's state capital post-conviction relief action (*Bobby Wayne Stone*); counsel reviewed both the Petition for Writ of Certiorari filed in the Supreme Court of the United States and the Fourth Circuit brief in

another capital federal habeas case, and conducted research for same, both of which have required responses due to be filed shortly (*Steven Bixby*); counsel prepared a joint status report in another capital federal habeas action to be filed upon consent by opposing counsel (*Bayan Aleksey*); and, counsel also prepared and appeared for status conferences on February 3, 2023 (*Gary Terry*) and February 24, 2023 (*John Richard Wood*); counsel has been involved in extensive hearing preparation throughout the month and had to prepared and filed objection to applicant's intent to reply on affidavits in a capital PCR action (*Ricky Lee Blackwell*).

3. In non-capital cases, counsel filed a reply to objections in a federal habeas action on February 2, 2023, (*George Middleton*); filed a status report and Objections to the Report and Recommendation on February 21, 2023 (*LaShawn Brannon*); completed revisions and filed on February 28, 2023 a final brief of respondent in a murder direct appeal in the South Carolina Court of Appeals (*Rashawn Little*); prepared and filed a letter in response to a successive motion for bail filed in this Court (*James Rose*); and, filed a Return and Memorandum of Law in Support of Motion for Summary Judgment on February 10, 2023 in a non-capital federal habeas action (*Robert Joe Frost*), another on February 27, 2023 (*Andre Tayson Boone*), and one other on March 1, 2023 (*Gerald Haltiwanger, Jr.*).

4. Counsel have completed and proofed one issue, nearly completed another but the third, though well under way, still needs the addition of several appendix citations and some expanded argument. However, counsel is currently beginning what is now believed to be a week-long capital PCR (*Ricky Lee Blackwell*). Once the hearing is concluded, this brief should be completed shortly thereafter. I note that co-counsel who briefed a portion of the return is on military leave and unable to assist at this time.

5. Additionally, the undersigned is the supervising attorney for the capital case and murder appeals unit. Counsel has been actively working with the unit attorneys to rebalance some of the work in an effort to avoid additional delays in other cases; has taken work from other attorneys in the process; and, has one attorney who has a significant medical condition resulting in absences and a reduced workload. Counsel is attempting to address the necessity of high number of extensions throughout the unit.

WHEREFORE, counsel respectfully requests a fifteen (15) day extension of time to serve and file the Brief of Respondent. This request is made in good faith, and not for the purposes of delay, but based on necessity in light of all the above.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
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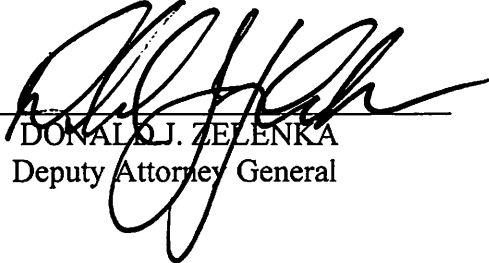
s/ Melody J. Brown

By: _____

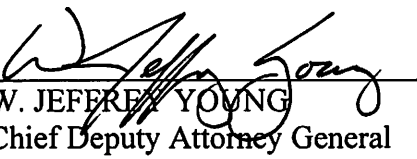
MELODY J. BROWN
ATTORNEYS FOR RESPONDENT

March 27, 2023

I support the finding of good cause.

By: 
DONALD J. ZELENKA
Deputy Attorney General

I support the finding of good cause and extraordinary circumstances.

By: 
W. JEFFREY YOUNG
Chief Deputy Attorney General

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PROOF OF SERVICE

I, Angela Brown, am an employee of the Respondent, herby certify that as per the March 20, 2020 Order of the Chief Justice, the Motion for Extension of Time to File the Brief of Respondent, along with Certificate of Service has been forwarded to Petitioner's counsel, Robert Dudek, Esquire at Rdudek@sccid.sc.gov, David Alexander, Esquire at DAlexander@sccid.sc.gov and Lara Caudy, Esquire at lcaudy@sccid.sc.gov, via email today, March 27, 2023 and to their assistants at hbryant@sccid.sc.gov, Kwarren@sccid.sc.gov and Cstock@sccid.sc.gov.

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

This 27th day of March, 2023.

s/ Angela Brown

ANGELA BROWN
Legal Assistant to Melody J. Brown
Senior Assistant Deputy Attorney General