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Apr 05 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dillon County

Paul M. Burch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

EARL GENE JOHNSON, JR.,

APPELLANT

APPELLATE CASE NO. 2022-001045

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

Counsel for Earl Gene Johnson respectfully requests a **fourth and final thirty (30) day extension April 5, 2023 until May 5, 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 fourth 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 Earl Gene Johnson 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 his caseload, counsel hopes that no further extension requests will be required.

3. Counsel will file the Initial Brief of Appellant and Designation of Matter in the murder case of The State v. Dabry Aunta James with the Court of Appeals today, April 5, 2023. Counsel is working with co-counsels in preparing the reply brief of petitioner for the capital appeal in the case of Marion Alexander Lindsey v. The State. Counsel is working with co-counsels in preparing the petition for rehearing for the capital appeal in the case of The State v. Timothy Ray Jones, Jr. Counsel appeared before the Supreme Court for oral argument in the case of The State v. William C. Sellers on Thursday, March 30, 2023. Counsel and co-counsel Lara M. Caudy filed the Initial Brief of Appellant and Designation of Matter in the case of The State v. Bowen Gray Turner with the Court of Appeals on March 16, 2023. Counsel appeared before the Supreme Court for oral argument in the case of The State v. James Caleb Williams on March 8, 2023. Counsel conducted a CLE presentation and training on Preserving the Record for Appellate Review for the Sixteenth Circuit Public Defender's Office on March 3, 2023. Counsel was a panelist for a CLE presentation on Criminal Practice in South Carolina for the South Carolina Bar CLE Division on February 24, 2023. Counsel conducted a CLE presentation and training on Preserving the Record for Appellate Review for the Fifteenth Circuit Public Defender's Office on February 22, 2023. Counsel filed the brief of petitioner in the case of James A. Gardner v. The State with this Court on January 18, 2023. Counsel filed the *Anders* Brief of Appellant and Record on Appeal in the murder case of Kenneth Tyrone Wherry v. The State with this Court on January 12, 2023. Counsel conducted a CLE presentation and training on

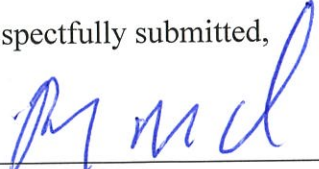
Preserving the Record for appellate Review for the Fifth Circuit Public Defender's Office on January 6, 2023. **Counsel also has extensive administrative duties as the Chief Appellate Defender.**

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.

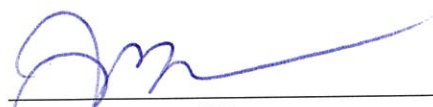
5. On April 4, 2023, opposing counsel, the Attorney General's Office, graciously consented to this extension request by way of general consent granted in writing, by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through April 30, 2023

WHEREFORE, the undersigned counsel would respectfully request a **fourth and final thirty (30) day extension from April 5, 2023 until May 5, 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.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender



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 5th day of April, 2023.

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CERTIFICATE OF SERVICE

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. Blicht, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 5th day of April, 2023.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

From: [Warren, Kaylynn](#)
To: [SC - BROWN MELODY](#)
Cc: [Dudek, Robert](#); [Angela Brown](#)
Subject: 2022-001045 The State v. Earl Gene Johnson, Jr.
Date: Wednesday, April 5, 2023 8:49:00 AM
Attachments: [2022-001045 The State v. Earl Gene Johnson, Jr. Fourth Motion for Extension and COS.pdf](#)

Good Morning,

Attached for service in the above-referenced case is the Fourth Motion for Extension and Certificate of Service which will be filed today, April 5, 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