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May 01 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 FIFTH EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a fifth 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 today, May 1, 2023. Counsel for Appellant has consented to extension requests through May 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 today, May 1, 2023. The undersigned attorney has been actively working on this brief but has had a number of state, and federal matters to attend to since March 30, 2023. Specifically:

1. Counsel prepared for two to three weeks and was also before the Honorable Daniel D. Hall for a PCR merits hearing in the matter of Ricky Lee Blackwell vs. State of South Carolina, 2018-CP-42-928, a Spartanburg County death penalty case. The merits hearing commenced on **Monday, March 27, 2023, and lasted through Friday, March 31, 2023 when**

it was suspended by Judge Hall due to a discovery issue. Respondent has continued to work on this matter since it was suspended in preparation for the re-convening of PCR merits hearing scheduled in July of this year;

2. Counsel prepared for and appeared before the South Carolina Supreme Court on **March 30, 2023** for oral argument on behalf of the State in the matter of The State v. William C. Sellers, (Murder) Appellate Case No. 2021-000910, an Edgefield County direct appeal matter¹;

3. Counsel filed the Respondent's Response to Motion to Remove, etc. [ECF #97] in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-1204-TLW, a federal habeas matter, on **April 6, 2023**;

4. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #29] in the matter of Mildred Montgomery, #372236 vs. Warden of Lieber Correctional Institution, C/A No. 8:22-03004-TMC-JDA, a federal habeas matter, on **April 10, 2023**;

5. Counsel filed the Respondent's Reply to Response to Motion for Summary Judgment [ECF #23] in the matter of Carlos Dennison vs. Warden of MacDougall Correctional Institution, C/A No. 9:22-02680-RMG-MHC, a federal habeas matter, also on **April 10, 2023**;

6. Counsel filed the Respondent's Response to Motion to Renew Motions [ECF #98] in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-1204-TLW, a federal habeas matter, on **April 11, 2023**;

7. Counsel filed the Respondent's Response to Motion to Renew Motions [ECF #98] in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-1204-TLW, [same case as above] also on **April 11, 2023**;

¹ Counsel attended oral argument on **March 30, 2023** and returned to the PCR merits hearing in Spartanburg after oral argument.

8. Counsel is also currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Kerwin Parker vs. Warden, Goodman Correctional Institution, C/A No. 1:23-cv-251-MGL-SVH (Federal Habeas Corpus – ABWIK) due May 15, 2023 [7 issues]; and

9. Counsel assisted in the preparation of the Reply to the Brief in Opposition to the Petition for Writ of Certiorari in Quincy Allen v. Warden (Federal Habeas Corpus-Capital Murder) filed in the United States Supreme Court on **April 13, 2023**;

10. Counsel is also currently preparing the Initial Brief of Respondent and Designation of Matter in this matter; and

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

In order to timely complete this brief, Respondent's counsel needs to review certain exhibits and view certain evidence before completing the Initial Brief of Respondent in this case, as those exhibits are relevant to the issues raised by Appellant in his brief. In order to timely complete this brief, counsel has scheduled to review those exhibits at the Lexington County Courthouse on Thursday, May 4 , 2023.

WHEREFORE, for extraordinary circumstances shown, counsel respectfully requests a fifth 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 May 31, 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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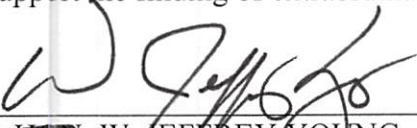
By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

May 1, 2023.

I support the finding of extraordinary circumstances.

By: 
MELODY J. BROWN,
Senior Assistant Deputy Attorney General

I too support the finding of extraordinary circumstances.

By: 
~~W.~~ W. JEFFREY YOUNG,
Chief 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 Fifth 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, May 1, 2023 to RDudek@sccid.sc.gov, and to his assistant at kwarren@sccid.sc.gov.

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

This 1st day of May, 2023.

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