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May 17 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Edgefield County
Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

Respondent,

v.

BARRY WAYNE JONES,

Appellant.

Appellate Case No. 2022-000046

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

The undersigned counsel would respectfully request a thirty (30) day extension in which to serve and file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. Counsel for Appellant has consented to all extension requests through May 31, 2023. In support of this motion, counsel would respectfully show the Court the following:

The Initial Brief of Respondent and Designation of Matter are due today, May 17, 2023 per this Court's Order dated April 18, 2023 granting Respondent's second extension request. Counsel has not been able to complete the brief within the allotted time, primarily due to case work in other assigned matters, especially the following matters spanning the last 30 days as set out below.

1. Undersigned counsel has had a number of other state and federal matters, many of those matters in capital cases, such as: counsel drafted and served discovery requests on April 7, 2023 (*Gary Terry*), and in that same case prepared for and attended a hearing on April 24, 2023 on competing proposed orders for an intellectual disability evaluation, and on May 3, 2023, completed compiling documents for the evaluation and sent the same to SCDDSN; reviewed, edited and consulted with co-counsel for a mandatory brief in opposition filed in the Supreme Court of the United States on April 17, 2023 (*Marion Bowman*); consulted with co-counsel and attended oral argument in the Supreme Court of South Carolina on April 18, 2023 (*Abdiyahh Ben Alkebulanyahh aka Tyree Roberts*); consulted with judge and co-counsel, and later drafted and sent a letter on April 27, 2023 to the Chief Justice of the Supreme Court of South Carolina regarding judge assignment in remand proceedings in another capital case (*Jerry Buck Inman*); drafted and sent a Rule 11 demand letter for discovery responses on April 27, 2023 and also consulted with a medical expert for a pending intellectual disability claim in another state capital case, and further filed. on May 8, 2023, a status update in the stayed federal habeas action (*Bobby Wayne Stone*); and, filed a status update in another capital federal habeas action on May 5, 2023 (*William Dickerson*). Counsel is also currently working on a return in an original jurisdiction action filed in the Supreme Court of South Carolina (*William Dickerson*); and is also in the process of preparing another petition to be filed in the Supreme Court of United States (*Sammie Stokes*).

2. In non-capital cases, undersigned counsel assisted co-counsel with the completion and filing of the Initial Brief of Respondent and Designation of Matter on April 20, 2023 (*Dionte Habersham*); completed and filed the Return to Petition for Writ of Certiorari on April 20, 2023 (*Xzareira Gray*); reviewed inhouse file and completed a closing letter on April 28, 2023 for

another attorney's direct appeal murder action (*Michael Williams*); completed and filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in a non-capital federal habeas action pending on May 4, 2023 (*Sylvester King*); and completed and filed a response to motion for bail in another non-capital federal habeas action on May 9, 2023 (*Terrell McCoy*).

4. Due to counsel's involvement in these and other matters, counsel is unable to timely complete the Brief.

WHEREFORE, counsel respectfully requests a 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.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

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By: s/Melody J. Brown
MELODY J. BROWN
ATTORNEYS FOR RESPONDENT

May 17, 2023.

I support the finding of good cause.

By: 
DONALD J. ZELENKA
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 Initial Brief of Respondent and Designation of Matter, along with Certificate of Service has been forwarded to Appellant's counsel, Lara M. Caudy, Esquire at Lcaudy@sccid.sc.gov, via email today, May 17, 2023 and to her assistant at Hbryant@sccid.sc.gov.

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

This 17th day of May, 2023.

s/ Angela Brown

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