

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dillon County

Steven H. John, Circuit Court Judge

RECEIVED

JUN 27 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ROBERT LEE NELSON,

APPELLANT

Appellate Case No. 2012-212640

**PETITION FOR EXTENSION TO FILE
INITIAL BRIEF OF APPELLANT AND
DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a **final thirty-day extension until July 29, 2013**, in which to file the initial brief of appellant and designation of matter in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following exigent circumstances:

1. The initial brief of appellant and designation of matter in this case are due to be served and filed today having been extended by five prior orders of this Court.

2. **Counsel had six oral arguments during the first two weeks in June 2013. For three of those arguments, counsel served as substitute counsel for an attorney who left the Office of Appellate Defense. Counsel spent a significant amount of time preparing for those oral arguments. Concerning the above-referenced case, Appellant**

was charged initially with capital murder. He was represented by Casey M. Secor and William S. McGuire of the Capital Trial Division of the Commission on Indigent Defense. Prior to trial, a judge found Appellant suffered from intellectual disability (formerly called mental retardation). As a result, Appellant was not eligible to be sentenced to death. His subsequent trial for non-capital murder proceeded on July 23, 2012 in Dillon County where Kenard E. Redmond and W. Shipp Daniel represented the state. The trial transcript is approximately 721 pages. The jury did not return a verdict on the two murder charges, but found Appellant guilty of two counts of armed robbery, one count of burglary in the first degree, and one count of possession of a weapon during a violent crime. Counsel spoke briefly with trial counsel regarding the case. Trial counsel believed at least four meritorious issues were preserved for appellate review. Counsel has discussed this request for a sixth extension with Chief Appellate Defender Robert Dudek.

3. Counsel intends to file the petition for writ of certiorari and accompanying appendix in the case of Santiago Rios v. State with the Supreme Court on June 28, 2013. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Eric Brown v. State with the Supreme Court on June 24, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Curtis Eugene Land with this Court on or before June 20, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Jerod Swinton in this Court on June 18, 2013. Counsel had an oral argument in the case of State v. Anthony Lounds with this Court on June 12, 2013. Counsel had an oral argument in the case of State v. Willie Poole with this Court on June 11, 2013. Counsel had an oral argument in the case of State v. Bobby

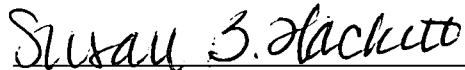
Gilbert in this Court on June 11, 2013. Counsel had an oral argument in the case of State v. Leslie Twyman with this Court on June 6, 2013. Counsel had an oral argument in the case of State v. Tyrone Beaty in this Court on June 4, 2013. Counsel had an oral argument in the case of State v. James Moore in this Court on June 5, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Luther Tollie Norris in this Court on May 28, 2013. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Matthew W. Gilliard v. State in the Supreme Court on May 22, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Douglas Bret Bishop in this Court on May 21, 2013. Counsel filed the petition for writ of certiorari in the case of State v. Trevee J. Gethers (Cert in the COA) in the Supreme Court on May 15, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Travario Dormell Brunson in the Supreme Court on May 14, 2013. Counsel had an oral argument in the case of State v. Marshall McGaha in this Court on May 8, 2013. Counsel had an oral argument in the case of State v. Sasha Gaskins in this Court on May 7, 2013. Counsel had an oral argument in the case of State v. Reginald Nance in this Court on May 6, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Kevin R. in this Court on May 6, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Malik Matthews in this Court on April 29, 2013. Counsel filed the petition for writ of certiorari in the case of State v. Thomas Gilliland (Cert in the COA) in the Supreme Court on April 26, 2013.

4. This request is made in good faith, and not for purposes of delay.

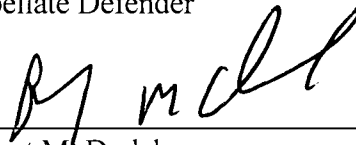
4. As indicated by her consent below, counsel for the state graciously consents to or does not oppose this request.

WHEREFORE, the undersigned counsel would respectfully request a **final thirty-day extension until ~~June 27, 2013~~ July 29, 2013** (with circled "29"), in which to file the initial brief of appellant and designation of matter in this case. Counsel requests that the time limits for filing the initial brief of appellant and designation of matter be held in abeyance pending a ruling on this motion.

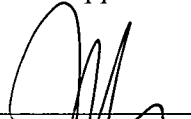
Respectfully submitted,



Susan B. Hackett
Appellate Defender



Robert M. Dudek
Chief Appellate Defender



T. Patton Adams, IV
Executive Director or
J. Hugh Ryan, III
General Counsel

June 27, 2013

I DO NOT OPPOSE:


Salley W. Elliott, Esquire