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Jun 08 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
The Honorable Michael G. Nettles, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

ANDRE JUNIOR COVINGTON,

APPELLANT.

Appellate Case No. 2022-000831

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

The undersigned counsel would respectfully request a THIRD thirty (30) day extension in which to file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. Counsel for Appellant has graciously consented to extension requests through June 30, 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 tomorrow, Friday, June 9, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since May 8, 2023. Specifically:

1. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Alton Wesley Gore, Jr., #322597 vs. Warden, Lee Correctional Institution, C/A No. 4:22-4040-DCC-TER on May 8, 2023;
2. Counsel prepared and filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #15] in the matter of Devin Middleton vs. Shane Jackson, Warden of Lee Correctional Institution, 5:22-cv-4647-BHH-KDW on May 9, 2023;
3. Counsel filed the Respondent's Renewed Motion to Unseal *Ex Parte* Funding Requests and Orders, Stay Rulings on Pending Requests & Prohibit Further *Ex Parte* Communications in the matter of Luzenski Allen Cottrell, #6020 vs. State of South Carolina, an Horry County capital Post-Conviction Relief matter on May 12, 2023;
4. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Tervin Goodman vs. Bryan Stirling and Warden, Broad River Correctional Institution, C/A No. 2:23-00206-RMG-MGB on May 17, 2023;
5. Counsel also appeared before the South Carolina Supreme Court for oral argument in the matter of The State vs. James Heyward, Appellate Case No. 2021-000122, a Richland County direct appeal matter on May 17, 2023;
6. Counsel filed the Brief of Petitioner and Appendix in the matter of The State vs. Demontay M. Payne, Appellate Case No. 2021-001097 a Barnwell County direct appeal matter now pending in the South Carolina Supreme Court on May 23, 2023;
7. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #29] in the matter of Susan Diane Hendricks vs. Warden of Graham (Camile Griffin) Correctional Institution, C/A No. 2:22-02391-TMC-MGB on May 25, 2023;

8. Counsel also prepared the Return to Motion to Stay the Setting of An Execution Date in the Dorchester County capital matter of Marion Bowman, Jr. vs. State of South Carolina, Appellate Case No. 2002-023546 (Direct Appeal), which was filed on June 2, 2023;

9. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #12] in the matter of Tervin Goodman vs. Bryan Stirling, et al., C/A No. 2:23-00206-RMG-MGB on June 6, 2023;

10. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of George S. Branham, II vs. Bryan Stirling, Director, et al., C/A No. 0:23-745-SAL-PJG; and

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

WHEREFORE, for good cause shown, counsel respectfully requests a THIRD 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 on July 10, 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


W. JOSEPH MAYE
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By: s/W. Joseph Maye
W. JOSEPH MAYE
ATTORNEYS FOR RESPONDENT

June 8, 2023.

I support the finding of good extraordinary circumstances.

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

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PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to W. Joseph Maye, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Third Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to Appellant's counsel, Kathrine Hudgins, Esq., via email today, June 8, 2023 to KHudgins@sccid.sc.gov and to her assistant at cstock@sccid.sc.gov.

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

This 8th day of June, 2023.

s/ Donna D'Alessio
Donna D'Alessio, Legal Assistant to
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Assistant Attorney General
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