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Jun 23 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County
The Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

DAUNTE MAURICE JOHNSON,

APPELLANT.

Appellate Case No. 2022-000931

**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, Friday, June 23, 2023. 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 attorney is actively working on this Initial Brief and has completed over half of the brief but has been unable to complete all of the same for several reasons.

First, the undersigned attorney has had a number of state, and federal matters to attend to since May 23, 2023 including matters in this Court. 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. Counsel also met with a witness in Greenville, South Carolina regarding this matter on **Friday, May 19, 2023;**

2. Counsel travelled to the Lexington County Clerk's office on **May 18, 2023** to review the exhibits in the matter of The State vs. Donovan T. Brannon, Appellate Case No. 2022-000015, (Murder) so that Initial Brief could be completed. The Initial Brief of Respondent was completed by the undersigned attorney and filed in this Court on **May 31, 2023;**

3. Counsel filed the Respondent's Response to Motion [ECF #109] in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-1204-TLW (a federal habeas corpus matter) on **June 8, 2023** in United States District Court;

4. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #35] in the matter of Rodney Galimore vs. Warden J. Nace, C/A No. 5:22-3541-SAL-KDW (a federal habeas matter) on **June 15, 2023** in United States District Court;

5. Counsel also filed the Respondent's Status Report as per TEXT Order [ECF #45] in the matter of Milciades Alcantara vs. Warden of McCormick Correctional Institution, C/A No. 9:21-01498-RBH-MHC (federal habeas matter) on **June 19, 2023** in United States District Court;

6. Counsel prepared and filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Andre Richardson vs. Bryan Stirling and LeVern

Cohen, Warden, C/A No. 2:23-cv-818-TMC-MGB (Murder) on **June 21, 2023** in United States District Court (approximately 74 pages);

7. Counsel assisted in the preparation of the Petition for Writ of Certiorari in the United States Supreme Court in the matter of Sammie Stokes vs. Bryan P. Stirling, et al, District Court case No. 1:16-00845-RBH, Lower Court Case No. 98-GS-38-1246 (Capital Murder/Federal Habeas Corpus) to be filed on **Tuesday, June 20, 2023**;

8. Counsel is also currently preparing the Initial Brief of Respondent in this matter The State vs. Daunte-Maurice Johnson, Appellate Case No. 2022-00093, a Sumter County direct appeal matter;

9. Counsel also conferenced today with co-counsel on Jerry Buck Inman v. State, a remand of a Capital PCR to the PCR Court re: Scheduling Order for new PCR Court and evidentiary matters for the remand PCR merits hearing; and

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

Undersigned counsel also needs to review certain exhibits in order to properly respond to the Initial Brief of Appellant because of the issues raised in Appellant's Initial Brief.

Respondent is scheduling an appointment with the Clerk's Office in Sumter County to review the exhibits in the next 2 weeks. Respondent requested computer copies of the Exhibits to speed up preparation of the brief, but 1 of those exhibits is not clear and visible and must be reviewed in person. Respondent also needs to listen to certain recordings of the defendant's statements to police. A law clerk was previously assigned to assist Respondent's attorney and is still assisting Respondent's attorney in the completion of this matter.

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 July 24, 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

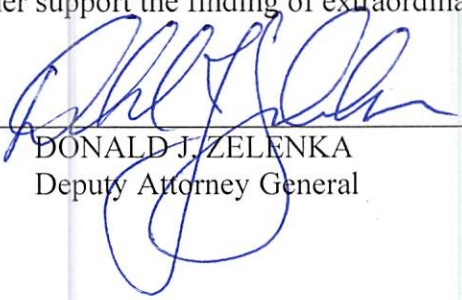
June 23, 2023.

I support the finding of extraordinary circumstances.

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

I further support the finding of extraordinary circumstances.

By: _____



DONALD J. ZELENKA
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, Breen R. Stevens, Esq., via email today, June 23, 2023 to bstevens@sccid.sc.gov and to his assistant at sleverett@sccid.sc.gov.

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

This 23rd day of June, 2023.

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