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Jul 05 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County  
Honorable Perry H. Gravely, Circuit Court Judge  
Appellate Case No. 2022-000928

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THE STATE,

Respondent,

vs.

JOSEPH MARTIN SWARINGEN,

Appellant.

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**MOTION FOR SIXTH EXTENSION OF TIME WITHIN WHICH  
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT  
AND DESIGNATION OF MATTER**

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Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

**I.**

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on July 5, 2023.

**II.**

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the State moves for a **sixth** and **final** extension in the above-referenced criminal appeal and asks for an additional thirty days to complete the brief in this case. In the past few weeks, the undersigned counsel has filed a Return to Petition for Writ of Certiorari in the Supreme Court

in Travis Semaj Hutchinson and Tyrell Woods v. State; and has filed a Final Brief of Respondent in the Court of Appeals in State v. Marc Yasin Mckeiver and State v. Aaron McKenzie Capers. In addition to that, the undersigned counsel has—at the Supreme Court’s request—researched, prepared, and submitted a Brief of Amicus Curiae on behalf of the State of South Carolina in United States of America v. Patrick Fitzgerald Clemons, which involves two significant certified questions submitted to our Supreme Court by the United States Court of Appeals for the Fourth Circuit. Along with that and other responsibilities—including supervisory and administrative ones—in the office, the undersigned counsel has also participated in mandatory in-office training related to leadership skills and has prepared for and presented at a continuing legal education seminar for prosecutors.

### III.

The undersigned counsel submits this extension request is supported by extraordinary circumstances and is not intended for purposes of delay. The Brief in the above-referenced case has required significant research because the case involves six distinct appellate issues. The undersigned counsel is currently working on the Brief in this case, intends to have it finished in a timely manner, and believes it should be completed shortly. However, the undersigned counsel has not yet been able to finish the Brief due to a heavy workload, other significant challenges that have resulted from substantial staffing issues that continue to be experienced by the undersigned counsel’s office, and some unanticipated matters that have required the undersigned counsel’s attention. Accordingly, in order to ensure the Brief is properly researched and prepared, I would therefore request one final additional extension of time within which to serve and file the Brief.

**WHEREFORE**, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty days from the date such relief is granted; hold the matter in abeyance pending a ruling on Respondent's motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,


ALAN WILSON  
Attorney General

MARK R. FARTHING  
Assistant Deputy Attorney General



By: \_\_\_\_\_  
Mark R. Farthing  
S.C. Bar Number 76901

I have reviewed and approved this extension request.

By:   
\_\_\_\_\_  
William M. Blitch, Jr.  
Senior Assistant Deputy Attorney General

By: s/Donald J. Zelenka  
Donald J. Zelenka  
Deputy Attorney General

July 5, 2023

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THE STATE,

Respondent,

vs.

JOSEPH MARTIN SWARINGEN,

Appellant.

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**PROOF OF SERVICE**

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I, Grace Sommer, certify I have served the within Motion for Sixth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by sending an electronic copy via email to the addresses listed in AIS for the following individuals:

C. Rauch Wise  
305 Main Street  
Greenwood, SC 29646

I further certify all parties required by Rule to be served have been served.  
This 5th day of July, 2023.

  
\_\_\_\_\_  
GRACE SOMMER  
Legal Assistant  
Office of the Attorney General

**From:** [Grace Sommer](#)  
**To:** [rauchwise@gmail.com](mailto:rauchwise@gmail.com)  
**Cc:** [Mark Farthing](#)  
**Bcc:** [Victim Services](#)  
**Subject:** The State v. Joseph Martin Swaringen (2022-000928)  
**Date:** Wednesday, July 5, 2023 3:51:00 PM  
**Attachments:** [image001.png](#)  
[Swaringen.Sixth Extension Request \(IBOR\) \(03326278xD2C78\).PDF](#)

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Good Afternoon Mr. Wise,

Attached please find a request for a sixth extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter in The State v. Joseph Martin Swaringen (2022-000928). This request will be filed today with the South Carolina Court of Appeals via the AIS OneDrive System.

If you will, please confirm receipt of this email.

Thank you,

**Grace Sommer**, Legal Assistant  
South Carolina Attorney General's Office  
Criminal Appeals | Office 803-734-3835 | [gracesommer@scag.gov](mailto:gracesommer@scag.gov)  
P.O. Box 11549 | Columbia, SC 29211  
[scag.gov](http://scag.gov)

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