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Jul 11 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Fairfield County
The Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

TIMOTHY JAMES THOMPSON,

APPELLANT.

Appellate Case No. 2022-000397

**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. The Initial Brief is currently due to be filed on Friday, July 14, 2023. Counsel for Appellant has consented to extension requests through July 31, 2023. In support of this motion, counsel would respectfully show the Court the following good cause:

Respondent's Initial Brief of Respondent and Designation of Matter is due to be filed Friday, July 14, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since June 8, 2023. Specifically:

1. Counsel is currently out of the office this week on a previously planned, yearly family vacation;

2. 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 the United States District Court;

3. 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 the United States District Court;

4. 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 the United States District Court;

5. 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). Same was filed on **Tuesday, June 20, 2023**;

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 the United States District Court (approximately 74 pages);

7. On **June 23, 2023**, counsel conferenced 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;

8. On **June 28, 2023** counsel attended the deposition of Dr. Susan Knights in the matter of Rickey Lee Blackwell vs. State of South Carolina, 2018-CP-42-00928, a Spartanburg County capital post-conviction relief matter. The deposition took place in Charleston, South Carolina;

9. Counsel is also currently preparing the Initial Brief of Respondent in the matter of The State vs. Daunte Maurice Johnson, Appellate Case No. 2022-00093, a Sumter County direct appeal matter (murder). Same is almost completed, and is due to be filed on **July 24, 2023**;

10. Counsel filed the Respondent's Response to Motion to Vacate [ECF #111] in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-1204-TLW (federal habeas matter) on **July 6, 2023**;

11. Counsel filed the Respondent's Response in Opposition to Motion for Preliminary Injunction or Stay [ECF #92] in the matter of John Garvin, #355509 v. Warden LeVern Cohen, C/A No. 2:22-994-DCN-MGB (a federal habeas corpus matter) on **July 10, 2023** in the United States District Court; and

12. Counsel filed the Respondent's Response in Opposition to Motion for Release [ECF #94], also in the matter of John Garvin, #355509 v. Warden LeVern Cohen, C/A No. 2:22-994-DCN-MGB on **July 10, 2023** in the United States District Court; and

13. 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 August 14, 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


J. ANTHONY MABRY
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By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

July 11, 2023.

I support the finding of 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 J. Anthony Mabry, 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, Robert M. Dudek, Esq., via email today, July 11, 2023 to RDudek@sccid.sc.gov, and to his assistant at kwarren@sccid.sc.gov.

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

This 11th day of July, 2023.

s/ Donna D'Alessio _____
Donna D'Alessio, Legal Assistant to
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