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Jul 14 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County
Honorable William A. McKinnon, Circuit Court Judge
Appellate Case No. 2021-001316

THE STATE,

Respondent,

vs.

TERRY SHAIMEK TYLER,

Appellant.

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

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 14, 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 **fourth** 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 Brief of Respondent in the Supreme Court in State v. Derrick

Tyler Mills; has filed a Return to Petition for Writ of Certiorari in the Supreme Court in Travis Semaj Hutchinson; has filed an Initial Brief of Respondent and Designation of Matter in the Court of Appeals in State v. Maxie Paul Wagner; 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 two important issues raising a constitutional challenge to the sentence imposed. The undersigned counsel is currently working on the Brief in this case and intends to have it finished in a timely manner. 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

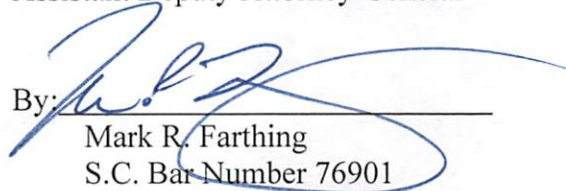
properly researched and prepared, I would therefore request an additional extension of time within which to serve and file the Brief.

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. Blich, Jr.
Senior Assistant Deputy Attorney General

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

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PROOF OF SERVICE

I, Grace Sommer, certify I have served the within Motion for the Fourth 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 address listed in AIS for the following individual:

Jessica M. Saxon, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 14th day of July, 2023.



GRACE SOMMER
Legal Assistant
Office of the Attorney General

Grace Sommer

From: Grace Sommer
Sent: Friday, July 14, 2023 4:27 PM
To: jsaxon@sccid.sc.gov
Cc: Mark Farthing; spollard@sccid.sc.gov
Subject: The State v. Terry Shaimek Tyler (2021-001316)
Attachments: Tyler.Fourth Extension Request (IBOR) (03334202xD2C78).PDF

Good Morning Ms. Saxon,

Attached please find a request for a fourth extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter in The State v. Terry Shaimek Tyler (2021-001316). 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
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scag.gov



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