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Aug 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 FOURTH EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a fourth 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 Monday, August 14, 2023. Counsel for Appellant has consented to extension requests through August 31, 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 on Monday, August 14, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since July 11, 2023. Specifically:

1. Counsel prepared for and attended the PCR evidentiary hearing in the capital post-conviction relief (PCR) matter of Ricky Lee Blackwell vs. State of South Carolina, before the Honorable Daniel D. Hall in Laurens County, South Carolina. Same commenced on Monday, **July 31, 2023** through **August 2, 2023**. Same is being continued;

2. Counsel was out of the office on a previously planned, yearly family vacation the week of July 10, 2023;

3. Counsel prepared and 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;

4. Counsel also prepared and filed the Response in Opposition to Motion for Release [ECF #94] 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;

5. Counsel prepared and filed the Initial Brief of Respondent in the matter of State vs. Daunte Maurice Johnson, Appellate Case No. 2022-00093, a Sumter County direct appeal matter (murder [2 counts]) on Monday, **July 24, 2023**. On **July 19, 2023**, counsel was out of the office part of the day reviewing exhibits in this matter in Sumter County;

6. Counsel filed the Response to Petitioner's Objections to the Report and Recommendation [ECF #38] in the matter of Mildred Montgomery v. Warden of Leath Correctional, C/A No. 8:22-cv-3004-TMC-JDA (federal habeas) in the United States District Court on Thursday, **July 20, 2023**;

7. Counsel prepared and filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Steven W. Oxendine vs. Warden of Evans Correctional Institution, C/A No. 2:23-cv-160-SAL-MGB (federal habeas) in the United States District Court on Monday, **July 24, 2023**;

8. Counsel also filed the Respondent's Reply to Response to Motion for Summary Judgment in the matter of Andre Richardson vs. Bryan Stirling, Director of South Carolina

Department of Corrections; and Levern Cohen, Warden of Ridgeland Correctional Institution,
C/A No. 2:23-00818-TMC-MGB in the United States District Court on Thursday, **July 27, 2023**;

9. Counsel filed the Respondent's Response to Motion for Injunctive Relief [ECF #116] in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-1204-TLW, also on **July 27, 2023**;

10. Counsel filed the Respondent's Response to Crawford's Motion for Injunctive Relief [District Court ECF #116] in the matter of Lawrence L. Crawford, a/k/a Jonah the Tishbite, a/k/a Gabriel Jahjah T. Tishbite, a/k/a John Gabriel Jahjah Tishbite and Ron Santa McCray vs. Warden of Lieber Correctional Institution, No. 22-7096 [1:22-cv-01204-TLW] in the United States Court of Appeals for the Fourth Circuit on **July 27, 2023**;

11. Counsel is currently preparing the Response Brief in the capital matter of Stephen C. Stanko, Appellant/Petitioner vs. Bryan Stirling, Director, South Carolina Department of Corrections, and Lydell Chestnut, Warden Broad River Correctional Institution, Appellee/Respondents, Case No. 22-3 now pending in the United States Court of Appeals for the Fourth Circuit. Same is due to be filed on Monday, **September 18, 2023**;

12. Counsel is also currently preparing the Return to Petition for Writ of Certiorari in the matter of The State vs. James Elbert Daniels, Jr., Appellate Case No. 2018-001630 in the South Carolina in the South Carolina Supreme Court. Same is currently due to be filed on **August 23, 2023**; 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 fourth 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 September 13, 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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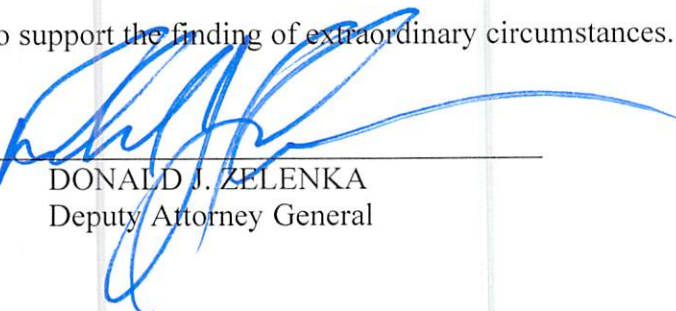
By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

August 11, 2023.

I support the finding of extraordinary circumstances.

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

I too support the finding of extraordinary circumstances.

By: 
DONALD J. ZELENKA
Deputy Attorney General

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Appellate Case No. 2022-000397

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 Fourth 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, August 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 August, 2023.

s/ Donna D'Alessio
Donna D'Alessio, Legal Assistant to
J. Anthony Mabry
Senior Assistant Attorney General
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