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Aug 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 FIFTH 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 August 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 **fifth** extension in the above-referenced criminal appeal and asks for an additional thirty days to complete the brief in this case. On today’s date, the undersigned counsel plans to file an Initial Brief of Respondent and Designation of Matter in the Court of

Appeals in State v. Joseph Martin Swaringen, which involved six distinct issues on appeal. Likewise, in the past few weeks, the undersigned counsel has filed a Petition for Rehearing in the Court of Appeals in In re Lauren Martel, Esq.; and has filed a Return to Petition for Rehearing in the Court of Appeals in State v. Kayla Marie Cook. In addition to that, the undersigned counsel has assumed representation of the State in the post-conviction relief matter of Justin Tyler Young v. State following the State’s receipt of an adverse ruling on July 17, 2023, reviewed the record in that matter, and submitted a “Respondent’s Motion to Reconsider, Alter, or Amend Pursuant to Rule 59(e), SCRCF” on behalf of the State. Furthermore, the undersigned counsel obtained the transcript from the circuit court proceedings in the pending State’s appeal of State v. Timothy Jermaine Miller and, following review and consultation, submitted a motion seeking for the appeal to be withdrawn. Along with that and other responsibilities—including supervisory and administrative ones—in the office, the undersigned counsel has also participated in mandatory training related to leadership skills, has undergone training related to annual accountability reports, and has prepared for and presented at a continuing legal education seminar for prosecutors from all over the state.

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. Most significantly, the undersigned counsel—in addition to the responsibilities detailed above—has been required to spend significant time over the last few weeks working closely with Senior Assistant Deputy Attorney General William M. Blich, Jr., and others in the office to prepare for the transition that will be required by William's imminent departure from the office following his acceptance of the position of Disciplinary Counsel for the State of South Carolina. 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

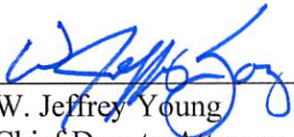
MARK R. FARTHING
Assistant Deputy Attorney General

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: 

W. Jeffrey Young
Chief Deputy Attorney General

August 14, 2023

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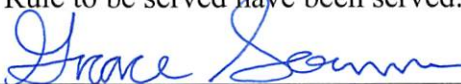
Appellant.

PROOF OF SERVICE

I, Grace Sommer, certify I have served the within Motion for the Fifth 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 August, 2023.



GRACE SOMMER

Legal Assistant
Office of the Attorney General

Grace Sommer

From: Grace Sommer
Sent: Monday, August 14, 2023 4:16 PM
To: Saxon, Jessica
Cc: Mark Farthing; Pollard, Shelby
Subject: The State v. Terry Shaimek Tyler (2021-001316)
Attachments: Tyler.Fifth Extension Request (IBOR) (03362329xD2C78).PDF

Good Afternoon Ms. Saxon,

Attached please find a fifth 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
South Carolina Attorney General's Office
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P.O. Box 11549 | Columbia, SC 29211
scaag.gov



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