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Aug 21 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Jasper County
Honorable Bentley Price, Circuit Court Judge
Appellate Case No. 2021-001500

THE STATE,

Respondent,

vs.

OSMAN UVALDO JIMENEZ BENITEZ,

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 August 21, 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 an Initial Brief of Respondent and Designation of Matter in the

Court of Appeals in State v. Joseph Martin Swaringen; and has filed a Final Brief of Respondent in the Court of Appeals in State v. Maxie Paul Wagner. Additionally, 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), SCRCP" 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v. Timothy Jermaine Miller and, following review and consultation, submitted a motion seeking for the appeal to be withdrawn.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 and has undergone training related to annual accountability reports.

III.

The undersigned counsel submits this extension request is supported 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 an important issue concerning the appellant's constitutional right to a speedy trial. 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

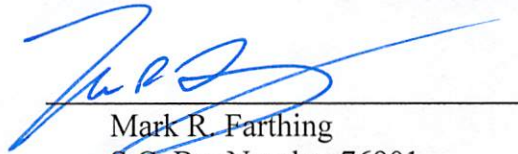
the last few weeks working closely with William M. Blich, Jr. and others in the office to prepare for the transition required by William's recent departure from the office following his acceptance of the position of Disciplinary Counsel for the State of South Carolina. Accordingly, in order to ensure 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
Senior Assistant Deputy Attorney General



Mark R. Farthing
S.C. Bar Number 76901

I have approved this extension request.

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

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THE STATE,

Respondent,

vs.

OSMAN UVALDO JIMENEZ BENITEZ,


Appellant.

PROOF OF SERVICE

I, Grace Sommer, certify I have served the within Motion for 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:

Breen Stevens, 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 21st day of August, 2023.


GRACE SOMMER
Administrative Coordinator
Office of the Attorney General

Grace Sommer

From: Grace Sommer
Sent: Monday, August 21, 2023 3:06 PM
To: Stevens, Breen
Cc: Mark Farthing; Leverett, Scott
Subject: The State v. Osman Uvaldo Jimenez Benitez (2021-001500)
Attachments: Benitez.Fourth Extension Request (IBOR) (03367922xD2C78).PDF

Good Afternoon Mr. Stevens,

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. Osman Uvaldo Jimenez Benitez (2021-001500). 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
scag.gov



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