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Aug 25 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Appellate Case No. 2023-001204

Francis Ackerman, #266928, et al. Appellants,

v.

South Carolina Department of Corrections Respondent.

**MOTION FOR AN EXTENSION OF THE DEADLINE BY WHICH
THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
MAY FILE ITS MEMORANDUM ADDRESSING
THE ISSUE OF APPEALABILITY**

On August 15, 2023, the Clerk issued a letter in which she stated that the Court had received the Appellants’ notice of appeal dated July 25, 2023 and that “[a] preliminary review of the order(s) challenged on appeal indicates it might not be appealable” and the requested the parties’ counsel to “serve and file memoranda addressing the issue of appealability within ten (10) days of the date of this letter.”

Accordingly, the memorandum from the undesignated counsel for the Respondent, the South Carolina Department of Corrections [SCDC], is due today, August 25, 2023. For the below stated reasons, however, SCDC’s undersigned counsel respectfully moves for an extension of the August 25, 2023 deadline until no later than Friday, September 1, 2023.

Since August 15, 2023, SCDC's undersigned counsel has found himself away from his office for a variety of personal reasons. From August 17 to 19, 2023, SCDC's undersigned counsel traveled out of state to attend a long-planned event in Morgantown, West Virginia.

On the morning of August 24, 2023, SCDC's undersigned counsel unexpectedly found himself assisting his oldest daughter, her husband, and their two-week old daughter (the first grandchild of SCDC's undersigned counsel and his wife) when they unexpectedly traveled to Columbia from their home in West Virginia. Such assistance by SCDC's undersigned counsel was necessary, because the wife of SCDC's undersigned counsel, herself an attorney who is licensed in both South Carolina and North Carolina, traveled to Asheville, North Carolina on August 23, 2023 to attend a conference. The wife of SCDC's undersigned counsel cut short her trip to return to Columbia in the early evening hours of August 24, 2023.

During the week beginning Monday, August 21, 2023, SCDC's undersigned counsel also confronted deadlines by which to provide discovery materials and responses in cases pending in both state and federal court.

During the week beginning Monday, August 21, 2023, SCDC's undersigned counsel, in his capacity as counsel for the South Carolina Law Enforcement Officers' Association [SCLEOA], also continued his representation two (2) law enforcement officers who had been involved in recent use-of-force incidents.

SCDC's undersigned counsel communicated his intent to seek an extension of the August 25, 2023 deadline in the instant matter, along with the above-chronicled circumstances, during a teleconference with the Appellants' counsel. The Appellants' counsel, while acknowledging the above-chronicled circumstances, stated he could not agree to such an extension under what he described as "the unique circumstances" presented by the Court's August 15, 2023 letter.

Notwithstanding the posture adopted by the Appellants' counsel, SCDC's undersigned counsel respectfully urges this Court to grant his instant motion and extend the deadline by which SCDC may file and serve its memorandum addressing the issue of appealability in the instant matter from today, August 25, 2023 until no later than Friday, September 1, 2023.

RESPECTFULLY SUBMITTED:

s/Lake E. Summers

Lake E. Summers

S.C. Bar #0064146

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Counsel for the South Carolina

Department of Corrections

Columbia, South Carolina

August 25, 2023

Counsel for the Appellants:

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PROOF OF SERVICE

I certify that I have served the **MOTION FOR AN EXTENSION OF THE DEADLINE BY WHICH THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS MAY FILE ITS MEMORANDUM ADDRESSING THE ISSUE OF APPEALABILITY** on the above-named Appellants by transmitting a PDF copy of the same via electronic mail to their counsel and by mailing a hard copy to their counsel, first class postage pre-paid, at the following address:

Douglas H. Westbrook, Esquire
Attorney at Law
3 Gamecock Avenue, Suite 304-B
Charleston, SC 29407
douglas.h.westbrook@gmail.com

August 25, 2023

s/Lake E. Summers
Lake E. Summers

Counsel for the South Carolina
Department of Corrections