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Sep 12 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 FIFTH EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a fifth 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 Wednesday, September 13, 2023. Counsel for Appellant has consented to extension requests through September 30, 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 Wednesday, September 13, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since August 11, 2023. Specifically:

1. Counsel filed the Respondent's *Reply to Response to Motion for Summary Judgment* [ECF #21] in the matter of Steven W. Oxendine, #383737 vs. Warden of Evans Correctional Institution, C/A No. 2:23-00160-SAL-MGB on August 17, 2023;

2. Counsel filed the *Return to Petition for Writ of Certiorari* in the matter of The State vs. James Elbert Daniels, Jr., Appellate Case No. 2018-001630 pending in the South Carolina Supreme Court on **August 23, 2023**;

3. Counsel filed the *Petition for Rehearing* in the matter of The State vs. Johnathan L. Hillary, Appellate Case No. 2019-001048, an Horry County direct appeal matter now pending in the South Carolina Court of Appeals on **August 31, 2023**;

4. 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**;

5. Counsel is also currently preparing the *Return to Petition for a Writ of Habeas Corpus* in the matter of Richard Bernard Moore vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections, in the Original Jurisdiction pending in the South Carolina Supreme Court. Same is due to be filed on **September 15, 2023**;

6. Counsel received a Brief in Opposition filed on September 7, 2023, in the United States Supreme Court in the Death penalty matter of Bryan P. Stirling, Director and Lydell Chestnut, Deputy Warden of Broad River Correctional Institution Secure Facility v. Sammie L. Stokes, that will require a time sensitive reply brief. See Supreme Court Rule 15 (6) (“Any petitioner may file a reply brief addressed to new points raised in the brief in opposition, but distribution and consideration by the Court under paragraph 5 of this Rule will not be deferred pending its receipt.”);

7. Counsel is working on the *Return and Memorandum of Law in Support of Summary Judgment* in the case of Comest Sabatino Allen v. William Langdon, Warden of Allendale Correctional Institution, case no. 9:23-00990-TMC-MHC which is on third extension and due **September 20, 2023**;

8. Counsel filed the *Final Brief of Respondent & Certificate of Compliance* in the matter of The State v. Donovan T. Brannon, Appellate Case No. 2022-000015, a murder appeal from Lexington County pending in the South Carolina Court of Appeals on **September 11, 2023**; and

9. Counsel has been involved in working on other matters in state and federal court.

WHEREFORE, for extraordinary circumstances, counsel respectfully requests a fifth 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 October 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


J. ANTHONY MABRY
Senior Assistant Attorney General
S.C. Bar No. 11973

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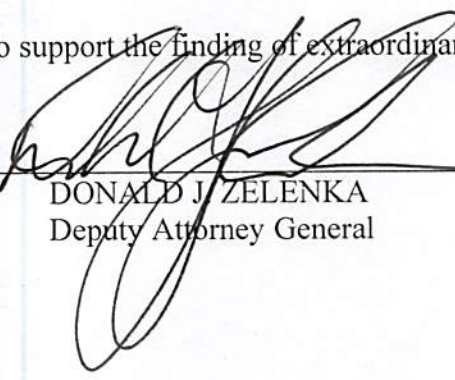
September 12, 2023.

By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

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, **J. Anthony Mabry**, the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Fifth 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, September 12, 2023 to RDudek@sccid.sc.gov, and to his assistant, Shelby Pollard at SPollard@sccid.sc.gov.

I further certify that all parties required by Rule to be served have been served.

This 12th day of September, 2023.

s/ J. Anthony Mabry

J. Anthony Mabry

Senior Assistant Attorney General

Office of the Attorney General

Post Office Box 11549

Columbia, South Carolina 29211-1549

(803) 734-6305

Brandy Rankin

From: Brandy Rankin
Sent: Tuesday, September 12, 2023 3:01 PM
To: Dudek, Robert
Cc: spollard@sccid.sc.gov
Subject: Fifth Extension to file the Initial Brief and Designation of Matter - Timothy James Thompson - Appellate Case No. 2022-000397
Attachments: Fifth Signed Final Extension, 9-12-23, Thompson (03386319xD2C78).pdf
Follow Up Flag: Worldox

Dear Mr. Dudek,

Please find attached the Respondent's fifth motion for extension to file the Initial Brief and Designation of Matter. These documents will be filed with the South Carolina Court of Appeals today, September 12, 2023, along with a copy of this email.

Thank you,

Brandy Rankin

Mrs. Brandy Rankin, Legal Assistant
South Carolina Attorney General's Office | Capital Litigation |
Office 803-734-7240 | Fax 803-734-4035 |
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