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Oct 13 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 SIXTH EXTENSION OF TIME TO FILE  
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

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

1. 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**;

2. Counsel filed the Respondent's Status Report as per TEXT Order [ECF #45] in the matter of Milciades Alcantara vs. Warden of McCormick Correctional Institution, C/A No. 9:21-01498-RBH-MHC on **September 20, 2023**;

3. Counsel also filed the Respondent's Reply to Objections to Report and Recommendations [ECF #35] in the matter of Kerwin S. Parker vs. Warden, Goodman Correctional Institution, C/A No. 1:23-251-MGL-SVH on **September 20, 2023**;

4. 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, required 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."). The Reply Brief of Petitioner was filed on **September 21, 2023**;

5. Counsel prepared and filed 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 on **Monday, October 2, 2023**;

6. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Malcolm A. Williams vs. Wilfredo Martell, Warden, C/A No. 4:23-cv-1833-DCC-TER on **Thursday, October 5, 2023**;

7. Counsel prepared and filed 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 on **Tuesday, October 3, 2023**;

8. Counsel was out of the office from **Monday, October 9, 2023** through **Wednesday, October 11, 2023** as he was attending the Solicitor's Conference [scheduled continuing legal education] in Myrtle Beach, SC; and

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

WHEREFORE, for extraordinary circumstances, counsel respectfully requests a sixth 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 November 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

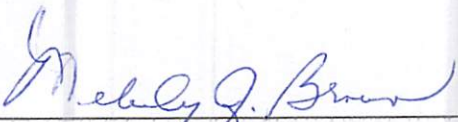
J. ANTHONY MABRY  
Senior Assistant Attorney General  
S.C. Bar No. 11973

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Post Office Box 11549  
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(803) 734-6305


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

October 13, 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:   
W. JEFFREY YOUNG  
Chief Deputy Attorney General

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TIMOTHY JAMES THOMPSON,

APPELLANT.

Appellate Case No. 2022-000397

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**PROOF OF SERVICE**  
\_\_\_\_\_

I, **J. Anthony Mabry**, attorney for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Sixth 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, October 13, 2023 to [RDudek@sccid.sc.gov](mailto:RDudek@sccid.sc.gov), and to his assistant, Shelby Pollard at [SPollard@sccid.sc.gov](mailto:SPollard@sccid.sc.gov).

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

This 13<sup>th</sup> day of October, 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