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Oct 24 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Marion County  
The Honorable G.D. Morgan, Jr., Circuit Court Judge

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THE STATE,

RESPONDENT,

v.

ZACHIR DEVAUGNTE SHYHIIM MCCALL,

APPELLANT.

Appellate Case No. 2022-000921

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**MOTION FOR FOURTH EXTENSION OF TIME TO FILE  
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

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The undersigned counsel would respectfully request a FOURTH thirty (30) day extension in which to file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. Counsel for Appellant has graciously 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 and Designation of Matter is due to be filed tomorrow, Wednesday, October 25, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since September 22, 2023. Specifically:

1. Counsel travelled to Richmond, Virginia on September 21, 2023 for oral argument before the United States Court of Appeals for the Fourth Circuit. Oral argument was September

22, 2023 in the capital matter of Steven Bixby v. Bryan Stirling, No. 22-4, lower court case no. 4:17-00954-BHH;

2. Counsel appeared on behalf of the State for oral argument in the South Carolina Supreme Court in the matter of The State vs. Demontay M. Payne, Appellate Case No. 2021-001097, a Barnwell County murder appeal matter on October 4, 2023;

3. Counsel also prepared the Respondent's Reply to Response to Motion for Summary Judgment [ECF #29], and Motion to Strike in the matter of Comest S. Allen vs. William Langdon, Warden of Allendale Correctional Institution, C/A No. 9:23-cv-990-TMC-MHC on October 6, 2023;

4. Counsel was out of the office the week of October 9<sup>th</sup> attending the Solicitor's Conference [scheduled continuing legal education] in Myrtle Beach, SC;

5. Counsel filed the Initial Brief of Respondent in the matter of The State vs. Polo K. Salazar, a Dorchester County direct appeal matter pending in the South Carolina Court of Appeals on October 18, 2023;

6. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of James C. Whaley, #1001117, a/k/a James C. Whaley, #357132 vs. Nick Gallam, C/A No. 4:23-cv-2473-HMH-TER. Same is due to be filed Friday, October 27, 2023;

7. Counsel is also currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Michael Wilson Pearson vs. Warden of Evans Correctional Institution, 5:23-cv-2693-CMC-KDW; and

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

WHEREFORE, for the following extraordinary circumstances, counsel respectfully requests a FOURTH 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 on November 24, 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

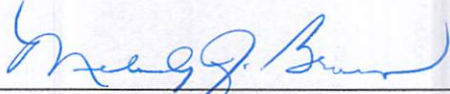
W. JOSEPH MAYE  
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S.C. Bar No. 100851

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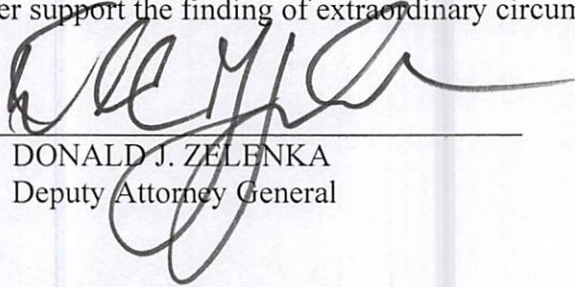
By: s/W. Joseph Maye  
W. JOSEPH MAYE  
ATTORNEYS FOR RESPONDENT

October 24, 2023.

I hereby support the finding of extraordinary circumstances.

By:   
MELODY J. BROWN,  
Senior Assistant Deputy Attorney General

I further support the finding of extraordinary circumstances.

By:   
DONALD J. ZELENKA  
Deputy Attorney General

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**PROOF OF SERVICE**

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I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to W. Joseph Maye, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Fourth Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to Appellant's counsel, Breen Stevens, Esq., via email today, October 24, 2023 to [Bstevens@sccid.sc.gov](mailto:Bstevens@sccid.sc.gov) and to his assistant at [sleverett@sccid.sc.gov](mailto:sleverett@sccid.sc.gov).

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

This 24<sup>th</sup> day of October, 2023.

*s/ Donna D'Alessio*  
Donna D'Alessio, Legal Assistant to  
W. Joseph Maye,  
Assistant Attorney General  
Office of the Attorney General  
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(803) 734-6305