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Oct 27 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Bentley Price, Circuit Court Judge
Appellate Case No. 2022-001075

THE STATE,

Respondent,

vs.

MAZAR NATHANIEL STURDIVANT,

Appellant.

**MOTION FOR FIFTH 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 October 27, 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 **fifth** extension in the above-referenced criminal appeal and asks for an additional thirty days to complete the brief in this case. Earlier today, the undersigned counsel filed a Final Brief of Respondent in the Court of Appeals in State v. Jeffery Keyon

Timothy Griffin, State v. Osman Uvaldo Jimenez Benitez, and State v. George Holmes.

Likewise, earlier this week, the undersigned participated in oral argument before the Supreme Court in State v. Gregg Pickrell, State v. Mutekis Jamar Williams, and United States of America v. Patrick Fitzgerald Clemons. Furthermore, in the past few weeks, the undersigned has participated in oral argument at the Supreme Court in State v. Randy Collins; has participated in oral argument at the Court of Appeals in State v. Ricky Manigo Dawson; has filed an Initial Brief of Respondent and Designation of Matter in the Court of Appeals in State v. George Holmes; has filed a Petition for Rehearing in the Supreme Court in State v. Corey Jermaine Brown; has filed a Petition for Writ of Certiorari and Appendix in the Supreme Court in Justin Tyler Young v. State; has filed a Return to Petition for Writ of Certiorari in the Supreme Court in State v. Terrell Denard Knightner; and has filed a Final Brief of Respondent in the Court of Appeals in State v. Brittany Valencia Martin and State v. Joseph Martin Swaringen. Along with that and other responsibilities—including supervisory and administrative ones—in the office, the undersigned counsel has prepared for and presented three distinct presentations on three separate days at the 2023 South Carolina Solicitors’ Annual Conference.

III.

The undersigned counsel submits this extension request is supported by 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 two important issues related to the admission of identification evidence during 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, challenges that have resulted from staffing issues that continue to be experienced by the undersigned

counsel's office, and some other unexpected and significant issues that have arisen.

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

By:



Mark R. Farthing
S.C. Bar Number 76901

I have reviewed and approved this extension request.

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

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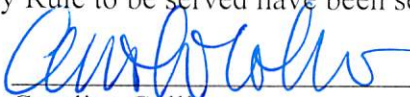
Appellant.

PROOF OF SERVICE

I, Caroline Collins, certify I have served the within Motion for Fifth 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:

Joanna K. Delany, 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 27th day of October, 2023.



Caroline Collins
Administrative Coordinator
Office of the Attorney General

Caroline Collins

From: Caroline Collins
Sent: Friday, October 27, 2023 5:39 PM
To: jdelany@sccid.sc.gov
Cc: Mcinnis, Sara; Mark Farthing
Subject: The State v. Mazar Nathaniel Sturdivant (2022-001075)
Attachments: Sturdivant.Fifth Extension Request (IBOR) (03423298xD2C78).PDF

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Good Afternoon Ms. Delany,

Attached please find a request for a fifth extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter in The State v. Mazar Nathaniel Sturdivant (2022-001075). 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,

CAROLINE COLLINS, Administrative Coordinator
South Carolina Attorney General's Office
Criminal Appeals | Office 803-734-3723 | ccollins@scag.gov
P.O. Box 11549 | Columbia, SC 29211
scag.gov



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