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Nov 08 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County
The Honorable Kristi F. Curtis, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

DERRICK A. MCILWAIN,

APPELLANT.

Appellate Case No. 2022-001425

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

The undersigned counsel would respectfully request a SECOND 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 today, Wednesday, November 8, 2023. Counsel for Appellant has graciously consented to extension requests up to and including November 30, 2023. In support of this motion, counsel would respectfully show the Court the following good cause:

The undersigned attorney has had a number of state, and federal matters to attend to since October 6, 2023 including matters in this Court. Specifically:

1. 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**;

2. 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;

3. Counsel prepared the Respondent's Reply to Response in Opposition to Motion for Summary Judgment in the matter of Malcolm Antwon Williams, #372579, aka Malcom A. Williams vs. Wilfredo Martell, Warden, C/A No.: 4:23-1833-DCC-TER on **Wednesday, October 25, 2023**;

4. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Jon Wynn Jarrard, Sr. vs. Warden, Wilfredo Martell, C/A No. 5:23-2588-SAL-KDW on **November 6, 2023**;

5. Counsel is currently preparing the Initial Brief of Respondent in the Fairfield County direct appeal matter of The State vs. Timothy James Thompson, Appellate Case No. 2022-000397 which is to be filed on **November 13, 2023**;

6. Counsel is also currently preparing the Initial Brief of Appellant in the matter of The State vs. Delrico Edmonds, Appellate Case No. 2022-001716, a Richland County murder appeal matter now pending in the South Carolina Court of Appeals. Same is due to be filed on **December 6, 2023**; and

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

WHEREFORE, for good cause shown, counsel respectfully requests a second 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 December 8, 2023.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
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By: s/J. Anthony Mabry

J. ANTHONY MABRY

ATTORNEYS FOR RESPONDENT

November 8, 2023.

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PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to J. Anthony Mabry, of counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the second 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, November 8, 2023 to jdelaney@sccid.sc.gov and to her assistant at smcinnis@sccid.sc.gov.

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

This 8th day of November, 2023.

s/ Donna D'Alessio

Donna D'Alessio, Legal Assistant to
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