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Nov 13 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Dorchester County

Brooks P. Goldsmith, Circuit Court Judge

IN THE MATTER OF THE CARE AND
TREATMENT OF PERRY GUSTUS PHILLIPS,

APPELLANT

APPELLATE CASE NO. 2022-001804

MOTION FOR AN EXTENSION OF TIME TO
SERVE AND FILE THE INITIAL BRIEF OF APPELLANT
AND DESIGNATION OF MATTER

Counsel for Perry Gustus Phillips respectfully requests a **fifth and final nine (9) day extension until November 22, 2023**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. Counsel regrets the necessity of his extension, *and he will file the initial brief and designation of matter before the requested deadline if possible*. In support of this request, counsel shows:

1. The Initial Brief of Appellant and Designation of Matter in this case are due to be served and filed with the Court today. Counsel for Perry Gustus Phillips respectfully submits that extraordinary circumstances exist: **Along with Chief Appellate Defender Robert M.**

Dudek and co-counsel Lara M. Caudy, Counsel is currently preparing the Petition for Writ of Certiorari in the United States Supreme Court in the death penalty case of State v. Timothy Ray Jones, Jr., which is due November 16, 2023. Counsel is also speaking at a CLE on Monday, November 20, 2023. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.

2. On November 7, 2023, Counsel argued the case of State v. Jeremiah DiCapua in this Court. On October 27, 2023, counsel filed the Return to the Petition for Rehearing in State v. Corey Brown in the Supreme Court. Counsel filed the Initial Brief of Appellant and Designation of Matter in the case of In the Matter of Joseph Curtis with this Court on October 25, 2023. On October 12, 2023, Counsel filed the Return to the Petition for Rehearing in State v. Joey Reid in this Court. From October 9-11, Counsel attended the annual Public Defender's Conference in Myrtle Beach. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Rayshon Smith v. The State with the Supreme Court on October 5, 2023. Counsel filed the Brief of Appellant in the case of The State v. Delmar Racory Sanders with this Court on September 29, 2023. Counsel filed a Petition for Certiorari in the United States Supreme Court in the case of South Carolina v. Mary Ann German on September 25, 2023. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Henry Pinckney v. The State with the Supreme Court on September 20, 2023. On September 12, 2023, Counsel argued the death penalty case of Marion Lindsey v. The State in the Supreme Court.

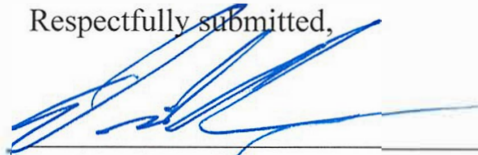
3. Counsel makes this request in good faith and not for purpose of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be

requested.

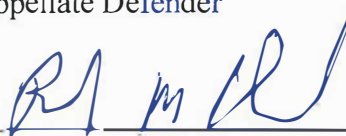
4. On October 31, 2023, opposing counsel, the Attorney General's Office, graciously consented to this extension request by way of general consent granted in writing, by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through November 30, 2023.

WHEREFORE, the undersigned counsel would respectfully request a **fifth and final nine (9) day extension until November 22, 2023**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in this case based upon the above exigent circumstances.

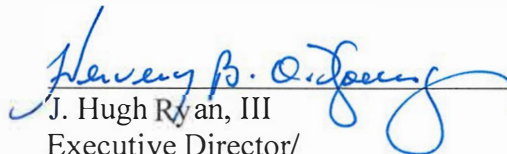
Respectfully submitted,



David Alexander
Appellate Defender



Robert M. Dudek
Chief Appellate Defender



J. Hugh Ryan, III
Executive Director/
Hervery B. O. Young
Deputy Director and General Counsel/
W. Lawrence Brown
Deputy General Counsel and Training Director

This 13th day of November, 2023.

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Honorable Brooks P. Goldsmith, Circuit Court Judge

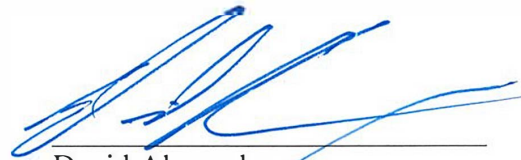
IN THE MATTER OF THE CARE AND
TREATMENT OF PERRY GUSTUS PHILLIPS,

APPELLANT

APPELLATE CASE NO. 2022-001804

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion for Extension in the above-referenced case has been served upon Deborah R.J. Shupe, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 13th day of November, 2023.



David Alexander
Appellate Defender

ATTORNEY FOR APPELLANT

From: [Pollard, Shelby](#)
To: dshupe@scag.gov; [Sally Ellison](#)
Cc: [Alexander, David](#)
Subject: 2022-001804 In The Matter of Perry Gustus Phillips - Fifth Motion for Extension
Date: Monday, November 13, 2023 1:24:00 PM
Attachments: [2022-001804 In The Matter of Perry Gustus Phillips - Fifth Motion for Extension.pdf](#)

Good Afternoon,

Please find attached for service in the above-referenced case the Fifth Motion for Extension in which to serve and file the initial brief of appellant and designation of matter. This extension will be filed today, November 13, 2023, with the Court of Appeals via email filing.

Thank you,
Shelby

Shelby Pollard

Administrative Assistant
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