

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

THE STATE,

RESPONDENT,

v.

ZACHIR DEVAUGNTE SHYHIIM MCCALL,

APPELLANT.

Appellate Case No. 2022-000921

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

The undersigned counsel would respectfully request a FIFTH fourteen (14) 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 November 30, 2023. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

Respondent’s Initial Brief and Designation of Matter was due to be filed on Friday, November 24, 2023. The undersigned attorney has had a number of state, and federal matters to attend to since October 27, 2023. Specifically:

1. Counsel prepared 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 on October 27, 2023;

2. Counsel also prepared 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 on November 6, 2023;

3. Counsel prepared the Returns to Applications for Post-Conviction Relief in five (5) Greenville County post-conviction matters;

4. Counsel appeared before the South Carolina Supreme Court for oral argument on behalf of the State in the matter of The State vs. Montrelle L. Campbell, Appellate Case No. 2022-000349, a Charleston County direct appeal matter on Wednesday, November 15, 2023;

5. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #47] in the matter of James C. Whaley, #1001117, a/k/a James C. Whaley, #357132 vs. Nick Gallam, C/A No. 4:23-2473-HMH-TER on November 16, 2023;

6. Counsel was out of the office for four (4) days due to family illness;

7. Counsel prepared the Respondent's Motion and Memorandum to Prohibit *Ex Parte* Funding Requests and Orders in the Lexington County capital matter of Norman Starnes vs. The State of South Carolina, 2011-CP-32-830 on November 17, 2023;

8. Counsel has substantially drafted the brief in this matter. Counsel is also waiting on the State's Exhibit 30 so as to thoroughly address the matters sent forth in the Initial Brief; and

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

WHEREFORE, for the following extraordinary circumstances, counsel respectfully requests a FIFTH fourteen (14) 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 December 8, 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
Assistant Attorney General
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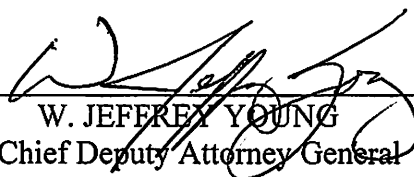
By: s/W. Joseph Maye
W. JOSEPH MAYE
ATTORNEYS FOR RESPONDENT

November 27, 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: 
W. JEFFREY YOUNG
Chief Deputy Attorney General

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Nov 27 2023

SC Court of Appeals

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PROOF OF SERVICE

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 Fifth 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 27, 2023 to Bstevens@sccid.sc.gov and to his assistant at sleverett@sccid.sc.gov.

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

This 27th day of November, 2023.

s/ Donna D'Alessio

Donna D'Alessio, Legal Assistant to
W. Joseph Maye,
Assistant Attorney General
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