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Dec 06 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County

Edward W. Miller, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

LILLIAN MAE BATES,

APPELLANT

APPELLATE CASE NO. 2023-000483

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

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Counsel for Lillian Mae Bates respectfully requests a **final three (3) business day extension from Wednesday, December 6, 2023, until Monday, December 11, 2023**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. **Counsel will file this brief and designation prior to the due date if at all possible.** This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a fifth request for an extension. 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.
2. Counsel for Lillian Mae Bates respectfully submits that extraordinary

circumstances exist which warrant the granting of an additional extension of time. **In support of this request Counsel submits that the case involves a novel issue of law involving a subject matter jurisdiction challenge to a plea to trafficking in illegal drugs: fentanyl, under S.C. Code Ann. § 44-53-370(e)(3). The plea at issue in the case occurred prior to the Legislature passing H. 3503 during the 2023 legislative session which specifically added the offense of trafficking in fentanyl to the South Carolina Code of Laws for the first time. Counsel has been extensively researching the legal issues involved in the case and needs the requested additional time to do justice in this matter. Counsel is currently working on the Initial Brief of Appellant in this case and will attempt to file it by Friday December 8, 2023, prior to the requested deadline.** Given the number of extensions previously granted and the order in which counsel attempts to manage her caseload, counsel **ensures** that no further extension requests will be required.

3. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Anthony M. Wise v. The State with the Supreme Court on December 6, 2023. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Michael Kelley v. The State with the Supreme Court on November 27, 2023. Counsel had an oral argument in the case of George N. Moses v. The State before the Court of Appeals on November 11, 2023. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Jodi Stapleton v. The State with the Supreme Court on October 16, 2023. Counsel filed the Initial Brief of Appellant and Designation of Matter in the case of The State v. Douglas S. Turner with the Court of Appeals on October 5, 2023. Counsel filed the Brief of Petitioner in the case of Holly Jo Thompson v. The State with the Court of Appeals on September 28, 2023. Counsel filed the Anders Brief of Appellant and Designation of Matter in the case of The State v. Rishard Lewis Geter with the Court of Appeals on September

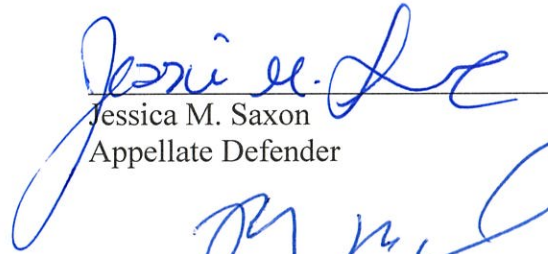
22, 2023.

4. 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.

5. On December 4, 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 December 31, 2023. Additionally, opposing counsel Senior Assistant Deputy Attorney General Mark Fathering does not object to the requested extension.

WHEREFORE, the undersigned counsel would respectfully request a **final three (3) business day extension from Wednesday, December 6, 2023, until Monday, December 11, 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. **Counsel will file this brief and designation prior to the due date if at all possible.**

Respectfully submitted,



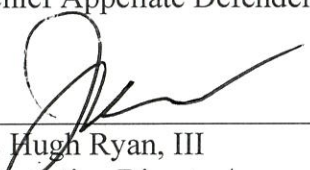
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Jessica M. Saxon  
Appellate Defender



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Robert M. Dudek  
Chief Appellate Defender



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

This 6<sup>th</sup> day of December, 2023.

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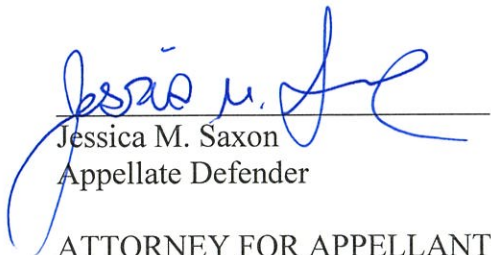
APPELLATE CASE NO. 2023-000483

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CERTIFICATE OF SERVICE

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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 Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 6<sup>th</sup> day of December, 2023.

  
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Jessica M. Saxon  
Appellate Defender

ATTORNEY FOR APPELLANT

**From:** [Stock, Chris](#)  
**To:** [Mark Farthing](#); [Grace Sommer](#)  
**Cc:** [Saxon, Jessica](#)  
**Subject:** 2023-000483 The State v. Lillian Mae Bates - Fifth Motion for Extension  
**Date:** Wednesday, December 6, 2023 10:10:00 AM  
**Attachments:** [2023-000483 The State v. Lillian Mae Bates - Fifth Motion for Extension.pdf](#)

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Mr. Farthing,

Please find attached for service the 5<sup>th</sup> Request for Extension for Initial Brief of Appellant and Designation of Matter for Lillian Mae Bates' appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

**Chris Stock**  
Administrative Assistant  
Commission on Indigent Defense  
Appellate Division  
(803) 734-1330