

**RECEIVED**

**Dec 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 THIRD EXTENSION OF TIME TO FILE  
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**  
\_\_\_\_\_

The undersigned counsel would respectfully request a THIRD 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, Friday, December 8, 2023. Counsel for Appellant has graciously consented to extension requests up to and including December 31, 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 November 8, 2023 including matters in this Court. Specifically:

1. Counsel prepared the Initial Brief of Respondent in the Fairfield County direct appeal matter of The State vs. Timothy James Thompson, Appellate Case No. 2022-000397 on **November 13, 2023**;

2. Counsel is also currently working on the matter of The State vs. Delrico Edmonds, Appellate Case No. 2022-001716, a Richland County murder State's appeal matter now pending in the South Carolina Court of Appeals. Counsel drafted and filed a Motion to Hold Time Limits in Abeyance Pending Receipt of Transcripts in this matter on **December 6, 2023**;

3. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #43] in the matter of Kerwin S. Parker vs. Warden, Goodman Correctional Institution, C/A No. 1:23-251-MGL-SVH (FHC) (ABWIK) on **December 6, 2023**;

4. Counsel is currently working on the matter of Stephen Stanko v. Warden (Capital Federal Habeas Corpus action now in the Fourth Circuit Court of Appeals); including a Response to Motion to File Supplemental Appendix, Response directed by the Fourth Circuit Court of Appeals **due Monday, December 11, 2023**;

5. Counsel is also currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Alonzo C. Jeter v. Warden Wilfredo Martell, C/A No. 9:23-cv-3253-MGL-MHC, (Federal Habeas Corpus) **with 18 grounds**, due in late December, and a substantial portion of this Return has been completed;

6. Counsel is assisting with drafting the Brief of Appellant (State's Appeal) from the grant of PCR in the matter of Storm Riley Brian McCarthy v. State, to be filed in the South Carolina Court of Appeals;

7. Counsel is also currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Antonio Collins vs. Warden of Kirkland Correctional Institution, C/A No. 5:23-cv-3696-DCC-KDW, and has made significant

progress; has completed a substantial portion of the Return, but needs additional time to complete and file the Return;

8. Counsel for Respondent was also out of the office on Thursday, December 7<sup>th</sup>, and today, Friday, December 8, 2023; and

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

WHEREFORE, for good cause shown, counsel respectfully requests a third 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 January 8, 2024.

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

J. ANTHONY MABRY  
Senior Assistant Attorney General  
S.C. Bar No. 11973

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Post Office Box 11549  
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(803) 734-6305

By: *s/J. Anthony Mabry*

J. ANTHONY MABRY

**ATTORNEYS FOR RESPONDENT**

December 8, 2023.

I support the finding of good cause.

By: 

MELODY J. BROWN

Senior Assistant Deputy Attorney General

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\_\_\_\_\_  
**PROOF OF SERVICE**  
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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 third Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to Appellant's counsel, Joanna K. Delaney, Esq., via email today, December 8, 2023 to [jdelaney@sccid.sc.gov](mailto:jdelaney@sccid.sc.gov) and to her assistant at [kwarren@sccid.sc.gov](mailto:kwarren@sccid.sc.gov).

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

This 8<sup>th</sup> day of December, 2023.

s/ Donna D'Alessio  
Donna D'Alessio, Legal Assistant to  
J. Anthony Mabry  
Senior Assistant Attorney General  
Office of the Attorney General  
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