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Dec 29 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
The Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

QUAYSHAUN XZANDER CLARK,

APPELLANT.

Appellate Case No. 2022-000962

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

The undersigned counsel would respectfully request a FIFTH 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 29, 2023. Counsel for Appellant has graciously consented to extension requests up to and including December 30, 2023. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

The undersigned attorney has had a number of state, and federal matters to attend to since November 29, 2023 including matters in this Court. Specifically:

1. 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**;

2. Counsel worked 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**, and also filed a Motion to Withdraw Notice of Appeal on **December 14, 2023**;

3. Counsel prepared and filed the Response/Objection to Motion for Leave to File Supplemental Appendix in the matter of Stephen Stanko v. Warden (Capital Federal Habeas Corpus action now in the Fourth Circuit Court of Appeals). This Response was directed by the Fourth Circuit Court of Appeals, and was filed on **December 11, 2023**;

4. 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;

5. Counsel has prepared and filed 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 (murder) on **December 20, 2023**;

6. Counsel also filed 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 17 grounds on December 27, 2023**;

7. Counsel attended the continuation of the evidentiary hearing before the Honorable Daniel Hall in York County in the matter of Ricky Lee Blackwell vs. State of South Carolina, Case No. 2018-CP-42-00928, a Spartanburg County capital death penalty matter on **December 15, 2023**;

8. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of William Tyrel Flemming vs. Warden People, C/A No. 5:23-cv-4034-BHH-KDW; and

9. Counsel has been involved in working **on other matters in state and federal court**; A law clerk/paralegal has been assigned to assist in the completing of this brief.

WHEREFORE, for extraordinary circumstances shown, counsel respectfully requests a fifth 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 29, 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

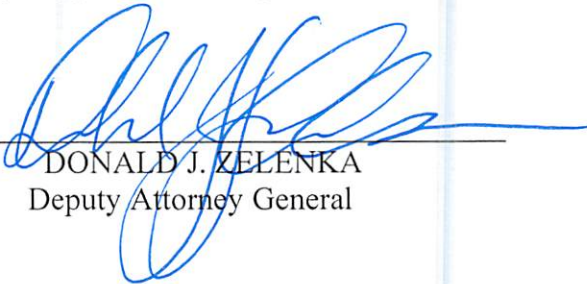
J. ANTHONY MABRY
Senior Assistant Attorney General
S.C. Bar No. 11973

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305

By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

December 29, 2023.

I hereby support the finding of extraordinary circumstances.

By: 
DONALD J. ZELENKA
Deputy Attorney General

I further support the finding of extraordinary circumstances.

By: _____
W. JEFFREY YOUNG
Chief Deputy Attorney General

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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 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, December 29, 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 29th 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
Post Office Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305