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Jan 11 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
The Honorable Clifton Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

CHARLES JASON CARMICHAEL,

APPELLANT.

Appellate Case No. 2022-001717

**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. Counsel for Appellant has graciously consented to extension requests through January 31, 2024. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

Respondent's Initial Brief and Designation of Matter is due to be filed tomorrow, January 12, 2024. The undersigned attorney has had a number of state, and federal matters to attend to since December 12, 2023. Specifically:

1. Counsel prepared for and attended oral argument on behalf of the State in the Lexington County capital matter of Ron O'Neal Finklea vs. State of South Carolina, Appellate

Case No. 2019-001104, on Wednesday, December 13, 2023 before the South Carolina Supreme Court;

2. Counsel filed the Respondent's Response in Opposition to Petitioner's Motion to Expand the State Court Record and/or Include Additional Materials as per TEXT Order #34 in the matter of Michael Wilson Pearson vs. Warden, Evans Correctional Institution, C/A No. 5:23-02693-CMC-KDW on December 11, 2023;

3. Counsel filed the Respondent's Reply to Petitioner's Objections to the Report and Recommendation [ECF #42] in the matter of Marvin Bowens Green, #346650, aka Marvin Bowens-Green #346650 vs. Tanya James, C/A No. 4:22-4291-TLW on December 18, 2023;

4. Counsel filed the Respondent's Reply to Objections to the Report and Recommendation in the matter of George S. Branham, II vs. Bryan Stirling, Director, South Carolina Department of Corrections; Shane Jackson, Warden, Lee Correctional Institution, C/A No. 0:23-745-SAL, also on December 18, 2023;

5. Counsel filed the Respondents-Appellees' Response in Opposition to Stay of Proceedings in the capital matter of Steven Vernon Bixby vs. Bryan P. Stirling, Commissioner, South Carolina Department of Corrections; Lydell Chestnut, Deputy Warden of Broad River Correctional Institution Secure Facility, No. 22-4, an Abbeville County capital matter now pending in the United States Court of Appeals for the Fourth Circuit, on December 20, 2023;

6. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Anthony Jones vs. S. Jackson, Warden, C/A No. 5:23-cv-4879-TMC-KDW on December 27, 2023;

7. Counsel filed the Respondent's Reply to Petitioner's Objections to the Report and Recommendation [ECF #20] in the matter of Tervin Goodman vs. Bryan Stirling and Warden Broad River Correctional Institution, C/A No. 2:23-cv-206-RMG-MGB on January 9, 2024;

8. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Chris Anthony Liverman vs. SC Dept. of Corrections, C/A No.: 9:23-03205-JD-MHC yesterday, January 10, 2024;

9. Counsel is also preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Earnest Vaughn vs. Warden Turbeville Correctional Institution, C/A No. 6:23-cv-4220-BHH-KFM. Same will be filed today, January 11, 2024;

10. Counsel is also currently preparing for the upcoming Greenville County Post-Conviction Relief term of court scheduled for Wednesday, January 17, 2024. Counsel has been charged with five (5) post-conviction relief matters; and

11. 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 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 on February 12, 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

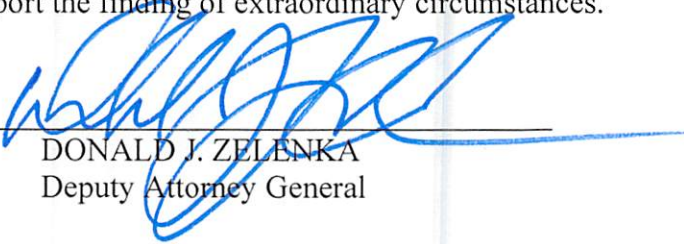
W. JOSEPH MAYE
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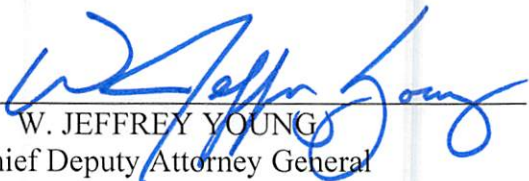
By: s/W. Joseph Maye
W. JOSEPH MAYE
ATTORNEYS FOR RESPONDENT

January 11, 2024.

I 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 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, Robert M. Dudek Esq., via email today, January 11, 2024 to RDudek@sccid.sc.gov and to his assistant at spollard@sccid.sc.gov, and to Yasmeen Ebbini at yasmeen.ebbini@nelsonmullins.com.

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

This 11th day of January, 2024.

s/ Donna D'Alessio

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