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Jan 18 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Fairfield County
Honorable Brian M. Gibbons, Circuit Court Judge

THE STATE,

Respondent,

v.

OSMAN S. SHABAZZ,

Appellant.

Appellate Case No. 2022-001387

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

Respondent, the State, moves this Court for an additional thirty (30) day extension of time in which to file the Initial Brief of Respondent and Designation of Matter, which is currently due to be filed tomorrow, January 19, 2024. Counsel for Appellant has graciously consented to all extension requests through January 31, 2024. This is Respondent's Fifth request for an extension of time in which to file the Brief. In support of the request, undersigned counsel for Respondent would respectfully show unto the Court the following extraordinary circumstances:

1. Counsel prepared and filed the *Reply to the Response in Opposition* on **December 11, 2023** in the matter of Rasheed Tamir Glover v. Shane Jackson, Warden, C/A No. 8:23-cv-03391-SAL-JDA, a matter pending in the District Court;

2. Counsel prepared and filed the *Motion for Summary Judgment and the Return and Memorandum in Support* for Aryee Henderson v. Jackson, C/A No. 4:23-cv-03458-SAL-TER, a matter pending in the District Court, on **December 14, 2024**;
3. Counsel filed the *Brief of Respondent* in the matter of State v. Nyquan Tykie Brown, Appellate Case No. 2023-000166, on **December 27, 2023**. The Supreme Court of South Carolina has granted a writ of certiorari in the matter;
4. Counsel read over two hundred pages of the *Petitioner's Response in Opposition to the Motion for Summary Judgment* and filed the *Reply* on **January 5, 2024** in LeVan v. State of South Carolina, C/A No. 4:22-cv-03990-MGL-TER, a matter pending the District Court;
5. Counsel prepared and filed the *Opening Response Brief of Respondent-Appellee* for Millanyo Woody v. Warden, Case No. 21-6088, in the Fourth Circuit Court of Appeals on **January 10, 2024**;
6. Counsel appeared for four PCR hearings on Tuesday, **January 16, 2024**, in Greenville County; and
7. Counsel has been involved in working on other matters in state and federal court.

Due to counsel's involvement in these and other matters in state and federal court, counsel is unable to complete the Initial Brief of Respondent and Designation of Matter in this action by the due date prescribed. This request is made in good faith, and not for the purposes of delay. Thus, counsel respectfully requests a thirty (30) day extension of time to allow counsel to complete the Initial Brief of Respondent. This is counsel's second request for additional time to do so.

WHEREFORE, undersigned counsel for Respondent respectfully requests an additional

extension of thirty (30) days to complete the Initial Brief of Respondent in this matter.

Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

JULIANNA E. BATTENFIELD
Assistant Attorney General

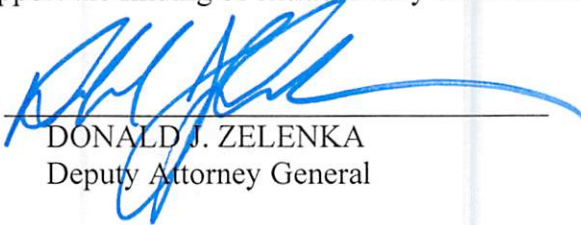
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January 18, 2024.

By: s/Julianna E. Battenfield
ATTORNEYS FOR RESPONDENT

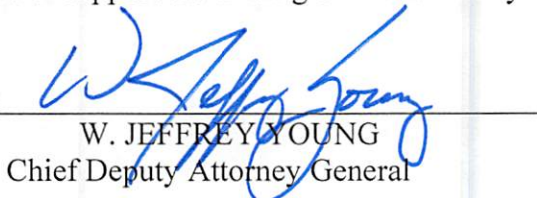
I support the finding of extraordinary circumstances.

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, Julianna E. Battenfield, counsel for the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Motion for a Fifth Extension of Time to File Initial Brief of Respondent and Designation of Matter, has been forwarded to Appellant's counsel, Kathrine Hudgins, Esq., via email today, January 18, 2024 to KHudgins@sccid.sc.gov, and to her assistant at cstock@sccid.sc.gov.

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

This 18th day of January, 2024.

s/Julianna E. Battenfield
Julianna E. Battenfield
Assistant Attorney General