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Jan 29 2024

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 SIXTH EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a SIXTH 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, Monday, January 29, 2024. Counsel for Appellant has graciously consented to extension requests up to and including January 31, 2024. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

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

1. Respondent filed a Motion **last week** to file an Amended Final Brief of Respondent in State v. James Monroe Brown (Murder) with this Court **and** has completed the Amended Final

Brief of Respondent which is ready for filing as soon as this Court grants the Motion to file the same;

2. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Christopher Heller vs. Warden of Lee Correctional Institution, C/A No. 5:23-cv-3456-JD-KDW (Murder, Federal Habeas Return and Motion for Summary Judgment) on **January 26, 2024**;

3. Counsel drafted and filed Respondent's Reply to Petitioner's Objections to the Report and Recommendation in Oxendine v. Warden, (Federal Habeas Corpus) on **January 22, 2024**;

4. Counsel investigated, consulted, and resolved the matter of State v. Delrico Edmonds (State's Appeal) in this Court, by Motion to Dismiss the Appeal which was granted by this Court on **January 23, 2024**;

5. Counsel drafted and filed the Petition for Writ of Certiorari and prepared and filed the Appendix (State's Appeal) from the grant of PCR in the matter of Storm Riley Brian McCarthy v. State, in the South Carolina Court Supreme Court on **January 12, 2024**;

6. Counsel is preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Jaamal Hinson vs. Bryan Stirling, C/A No. 1:23-cv-3906-MGL-SVH (Murder) (Federal Habeas Corpus) **due on February 7, 2024, no further extensions**;

7. Counsel assisted in editing the Return and Memorandum of Law in William Dickerson v. Warden (Capital FHC), filed in the last 2 weeks;

8. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of William Tyrel Flemming vs. Warden Peeple, C/A No. 5:23-4034-BHH-KDW (Murder)(Federal Habeas Corpus) on **January 5, 2024**;

9. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #50] in the matter of Jon Wynn Jarrard, Sr. vs. Warden, Wilfredo Martell, C/A No. 5:23-2588-SAL-KDW on **January 3, 2024**;

10. Counsel reviewed Report and Recommendations of the U.S. Magistrate Judge in Kerwin Parker v. Warden (FHC) on **January 10, 2024** and Andre Richardson v. Warden (Murder)(FHC) on **January 26, 2024**;

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

B. The transcript of this case is approximately 1,474 pages in length and the issues raised by Appellant are fact intensive and require careful review of the entire transcript;

C. Because of the two (2) issues raised by Appellant and the length of the transcript:

1. A law clerk has already been assigned to help in completion of this case and has done so; and

2. Respondent must review all of the exhibits and evidence in this case to complete the Initial Brief and Respondent, and Respondent is scheduling for **February 8, 2024**, review of the same with the Lexington County Clerk of Court;

WHEREFORE, for extraordinary circumstances shown, counsel respectfully requests a sixth 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 February 28, 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
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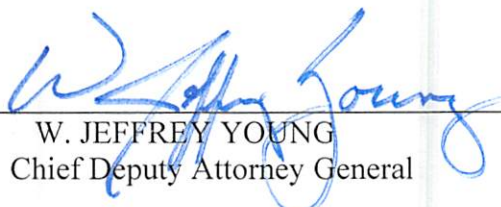
By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

January 29, 2024.

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 Sixth 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, January 29, 2024 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 January, 2024.

s/ Donna D'Alessio _____

Donna D'Alessio, Legal Assistant to
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