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Feb 12 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL LINDSAY FAILE,

APPELLANT

APPELLATE CASE NO. 2023-001055

MOTION FOR AN EXTENSION OF TIME TO
SERVE AND FILE THE INITIAL BRIEF OF APPELLANT
AND DESIGNATION OF MATTER

Counsel for Michael Lindsay Faile respectfully requests a **fourth and final thirty (30) day extension from February 12, 2024, until March 11, 2024**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a fourth request for an extension. In support of this request, counsel shows:

1. The Initial Brief of Appellant and Designation of Matter in this case are due to be served and filed with the Court today.
2. Counsel for Michael Lindsay Faile respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the

number of extensions previously granted and the order in which counsel attempts to manage her caseload, counsel hopes that no further extension requests will be required.

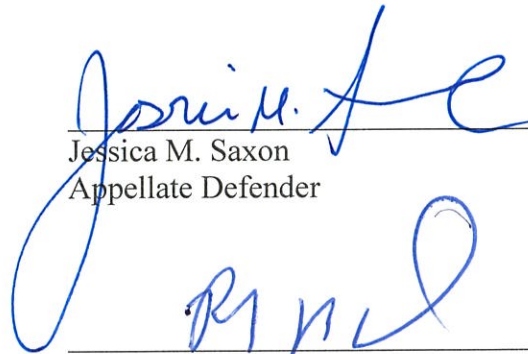
3. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Justen L. Wilkes v. The State with the Supreme Court on February 12, 2024. Counsel appeared before the Court of Appeals for Oral Argument in the case of Devatee Tymar Clinton v. The State on February 6, 2024. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Demetrius A. Goodwin v. The State with the Supreme Court on January 16, 2024. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Jeremiah Johnson v. The State with the Supreme Court on January 8, 2024. Counsel filed the Initial Brief of Appellant and Designation of Matter in the case of The State v. Celia Windham with the Court of Appeals on January 5, 2024. Counsel filed the Return to Petition for Writ of Certiorari in the case of Mitchell Rivers v. The State with the Supreme Court on January 2, 2024. Counsel filed the Initial Brief of Appellant and Designation of Matter in the case of The State v. Lillian Mae Bates with the Court of Appeals on December 11, 2023. Counsel filed the Petition for Writ of Certiorari and Appendix in the case of Anthony M. Wise v. The State with the Supreme Court on December 6, 2023.

4. Counsel makes this request in good faith and not for purpose of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

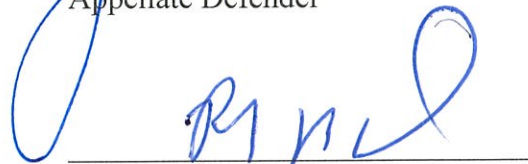
5. On January 31, 2024, opposing counsel, the Attorney General's Office, graciously consented to this extension request by way of general consent granted in writing, by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through February 29, 2024.

WHEREFORE, the undersigned counsel would respectfully request a **fourth and final thirty (30) day extension from February 12, 2024, until March 11, 2024**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in this case based upon the above exigent circumstances.

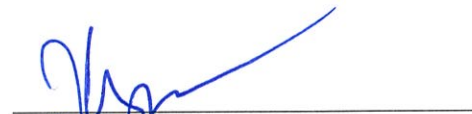
Respectfully submitted,



Jessica M. Saxon
Appellate Defender



Robert M. Dudek
Chief Appellate Defender



J. Hugh Ryan, III
Executive Director/
Hervery B. O. Young
Deputy Director and General Counsel/
W. Lawrence Brown
Deputy General Counsel and Training Director

This 12th day of February, 2024.

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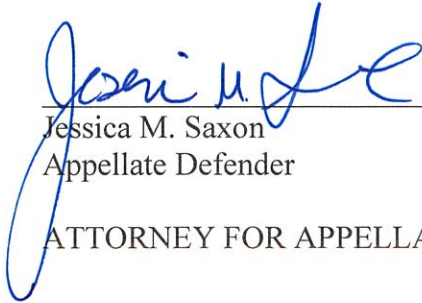
MICHAEL LINDSAY FAILE,

APPELLANT

APPELLATE CASE NO. 2023-001055

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion for Extension in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 12th day of February, 2024.



Jessica M. Saxon
Appellate Defender

ATTORNEY FOR APPELLANT

From: [Warren, Kaylynn](#)
To: [Mark Farthing](#)
Cc: [Saxon, Jessica](#); [Caroline Collins](#); [Stock, Chris](#)
Subject: 2023-001055 The State v. Michael Lindsay Faile
Date: Monday, February 12, 2024 9:07:00 AM
Attachments: [2023-001055 The State v. Michael Lindsay Faile Fourth Motion for Extension and COS.pdf](#)

Good Morning,

Attached for service in the above-referenced case is the Fourth Motion for Extension which will be filed today, February 12, 2024, with the Court of Appeals via email filing.

Respectfully,
Kaylynn

Kaylynn Warren

Administrative Assistant
South Carolina Commission on Indigent Defense
Division of Appellate Defense
(803) 734-1330