

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Lexington County
Honorable Perry M. Buckner, Circuit Court Judge
Court of Appeals Appellate Case No. 2012-212839

THE STATE,

Respondent

RECEIVED

AUG 05 2013

SC Court of Appeals

vs.

DANIEL BROCKWAY,

Appellant.

**MOTION OUT OF TIME FOR SECOND EXTENSION TO SERVE AND FILE
RESPONDENT'S INITIAL BRIEF AND DESIGNATION OF MATTER AND/OR
MOTION TO HOLD APPEAL IN ABEYANCE PENDING THE SUPREME COURT'S
RULING ON RESPONDENT'S MOTION TO CERTIFY**

Respondent, through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter were due to be served and filed on Friday, August 2, 2013. Due to an oversight by the undersigned, the motion for second extension was not timely served and filed. Respondent asks this Court to accept the motion for second extension out of time

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the

Respondent moves for a second extension in the above referenced appeal. Due to work required in other cases pending before this Court and the South Carolina Supreme Court, the Respondent is unable to complete this Brief on time. This extension request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. Respondent therefore requests a second extension out of time within which to serve and file the Initial Brief of Respondent and Designation of Matter.

III.

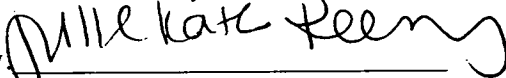
Further, Respondent respectfully asks this Court to hold this appeal in abeyance pending the Supreme Court's ruling on the State's Motion to Certify, which was served July 26, 2013.

WHEREFORE, Respondent prays that this Court allow Respondent a second extension in order for Respondent to file and serve the Initial Brief of Respondent and Designation of Matter out of time; hold this appeal in abeyance pending the Supreme Court's ruling on Respondent's Motion to Certify; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

JULIE KATE KEENEY
Assistant Attorney General

By 

Julie Kate Keeney
S.C. Bar No. 100145

Office of the Attorney General
Post Office Box 11549
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(803) 734-4124

August 5, 2013

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IN THE SUPREME COURT

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THE STATE,

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vs.

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PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion Out of Time for Second Extension to Serve and File Respondent's Initial Brief of Respondent and Designation of Matter and/or Motion to Hold Appeal in Abeyance Pending the Supreme Court's Ruling on Respondent's Motion to Certify on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Katherine Carruth Goode, Esquire
229 South Congress Street
Winnsboro, SC 29180

Steven M. Hisker
Hisker Law Firm, P.C.
126 Main Street
Duncan, SC 29334

I further certify that all parties required by Rule to be served have been served.
This 5th day of August, 2013.


ELLEN R. DuBOIS
Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

August 5, 2013

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: State v. Daniel Brockway – Court of Appeals Appellate Case No. 2012-212839

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion Out of Time for Second Extension to Serve and File Respondent's Initial Brief of Respondent and Designation of Matter and/or Motion to Hold Appeal in Abeyance Pending the Supreme Court's Ruling on Respondent's Motion to Certify, along with proof of service, for filing in the above-referenced appeal.

Sincerely,

Julie Kate Keeney
Assistant Attorney General
S.C. Bar No. 100145

JKK/erd

cc: Katherine Carruth Goode
Steven M. Hisker
Victim Services

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