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Mar 13 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Sumter County  
Honorable Kristi F. Curtis, Circuit Court Judge  
Appellate Case No. 2022-001428

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THE STATE,

Respondent,

vs.

JOQUELL WAYNE MYERS,

Appellant.

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**MOTION FOR SIXTH EXTENSION OF TIME WITHIN WHICH  
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT  
AND DESIGNATION OF MATTER**

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Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

**I.**

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on March 13, 2024.

**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 State moves for a **sixth** extension in the above-referenced criminal appeal and asks for an additional thirty days to complete the brief in this case. Earlier this week, the undersigned filed a Brief of Respondent Pursuant to White v. State along with an informal Return to Petition

for Writ of Certiorari in the Supreme Court in Brian Foster v. State and participated in oral argument before the Court of Appeals in State v. Christopher Cooper. Additionally, in the past few weeks, the undersigned counsel has participated in oral argument before the Supreme Court in State v. Eric Emanuel English; has filed a Brief of Respondent in the Supreme Court in State v. Jason Edwin Stoots; has submitted a response to a pro se filing at the request of the Supreme Court in James A. Tucker v. State; has filed a Return to Petition for Writ of Certiorari in the Supreme Court in State v. David Antonio Little, Jr; has filed an Initial Brief of Respondent and Designation of Matter in the Court of Appeals in State v. Bryan Preston Cooper; has filed a Final Brief of Respondent in the Court of Appeals in State v. Dlanor Phillip Tilton, State v. Terry Shaimek Tyler, and State v. Bryan Preston Cooper. Along with that, the undersigned counsel has attended to other responsibilities—including supervisory and administrative ones—in the office and has prepared for and presented at continuing legal education seminars for solicitors on behalf of the South Carolina Commission on Prosecution Coordination, for government lawyers on behalf of the South Carolina Attorney General’s Office, and for members of the bar at the “33rd Annual Criminal Practice in South Carolina” presentation on behalf of the South Carolina Bar.

### III.

The undersigned counsel submits this extension request is supported by extraordinary circumstances and is not intended for purposes of delay. The Brief in the above-referenced case involves two important issues related to the presentation of a mutual combat jury instruction during trial, and the undersigned counsel’s preparation of the State’s Brief has required the obtaining and review of numerous exhibits admitted during trial. The undersigned counsel is currently working on the Brief in this case and intends to have it finished in a timely manner. However, the undersigned counsel has not yet been able to finish the Brief due to a heavy

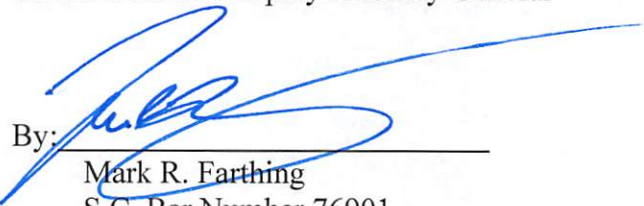
workload, other significant challenges that have resulted from substantial staffing issues that continue to be experienced by the undersigned counsel's office, and other unexpected issues that arose requiring the undersigned counsel's attention. Accordingly, in order to ensure the Brief is properly researched and prepared, I would therefore request an additional extension of time within which to serve and file the Brief.

**WHEREFORE**, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty days from the date such relief is granted; hold the matter in abeyance pending a ruling on Respondent's motion; and grant such other and further relief as the Court may deem just and proper.

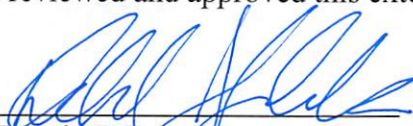
Respectfully submitted,

ALAN WILSON  
Attorney General

MARK R. FARTHING  
Senior Assistant Deputy Attorney General

By:   
\_\_\_\_\_  
Mark R. Farthing  
S.C. Bar Number 76901

I have reviewed and approved this extension request.

By:   
\_\_\_\_\_  
Donald J. Zelenka  
Deputy Attorney General

March 13, 2024

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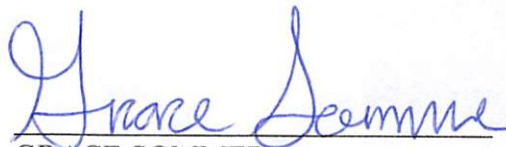
**PROOF OF SERVICE**

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I, Grace Sommer, certify I have served the within Motion for the Sixth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by sending an electronic copy via email to the addresses listed in AIS for the following individuals:

Lewis Hartwell Warr and Robert R. Young, Jr., Esquires  
23 West Calhoun Street  
Sumter, South Carolina 29150

I further certify all parties required by Rule to be served have been served.  
This 13<sup>th</sup> day of March, 2024.



GRACE SOMMER  
Legal Assistant  
Office of the Attorney General