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Mar 15 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Beaufort County
The Honorable Bentley Price, Circuit Court Judge

THE STATE,

Respondent,

v.

CHANNON T. PRESTON,

Petitioner.

Appellate Case No. 2022-001474

**MOTION FOR THIRD 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, up to and including April 17, 2024. The brief is currently due to be filed Monday, March 18, 2024. Counsel for Petitioner has graciously consented to extension requests through March 31, 2024. This is Respondent's third request for an extension of time in which to file the Initial Brief & Designation of Matter. In support of the request, undersigned counsel for Respondent would respectfully show unto the Court the following:

Counsel has not been able to complete the brief within the allotted time, primarily due to case work in other assigned matters, especially the following matters spanning the last 30 days as set out below:

1. Counsel completed and filed the Initial Brief of Respondent and Designation of Matter on February 20, 2024, in the matter of The State vs. Osman Shareef Shabazz, Jr., Appellate Case No. 2022-001387, a matter pending in this Court;

2. Counsel phone conferenced on February 21, 2024 with a Solicitor regarding the remand for a new stand your ground hearing following a remand after appeal in the matter of The State v. John William McCarty, 437, S.C. 355, 878 S.E. 2d 902 (2022);

3. Counsel prepared and filed the Motion for Summary Judgment and Return and Memorandum of Law in Support of Motion for Summary Judgment on February 28, 2024, in the matter of Odom Bryant. Warden, Tallahatchie County Correctional Facility, C/A No. 5:23-cv-05088-JDA-KDW, a Federal Habeas pending in the District Court;

4. Counsel prepared and filed the Response in Opposition to the Motion to Amend on March 6, 2024, in the matter of Larry James Tyler, #3354459 v. Director of the Darlington County Detention Center, C/A No. 9:22-cv-01623-MGL, a matter pending in the District Court;

5. Counsel prepared and filed the Response in Opposition to the Motion for Discovery on March 11, 2024, in the matter of Timothy Johnson, also known as Timothy L. Johnson, #370487 v. S. Jackson, a matter pending in the District Court;

6. Counsel attended a Post Conviction Relief hearing in Spartanburg on March 12, 2024, in the matter of Reynoldo Pimienta aka Reynoldo Pimiento v. The State, Case No. 2021-CP-23-1789;

7. Counsel has been working on completing the *Final Brief & Certificate of Compliance* in the matter of The State v. Jarvise Terrell Jenkins, Appellate Case No. 2022-000181, due on **March 18, 2024**, a matter pending in this Court;

8. Counsel has been working on preparing Oral Argument to be presented in the United States Court of Appeals for the Fourth Circuit, in the matter of Millanyo Woody v. Tucker, Warden, No. 21-6088, argument scheduled in Richmond, Virginia on March 21, 2024, at 9:30 am.

9. Counsel has been involved in working on other matters in state and federal court.

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 & Designation of Matter.

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. BATTENFFIELD
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By: *s/ Julianna E. Battenfield*
JULIANNA E. BATTENFFIELD
ATTORNEYS FOR RESPONDENT

March 15, 2024.

I support the finding of good cause.

By: 

MELODY J. BROWN,
Senior Assistant Deputy Attorney General

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PROOF OF SERVICE

I, Julianna E. Battenfield, the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Petition for Third Extension of Time to File Initial Brief of Respondent and Designation of Matter, and Proof of Service has been forwarded to Petitioner's counsel, Robert M. Dudek, Esq., via email today, March 15, 2024 to RDudek@sccid.sc.gov, and to his assistant, Shelby Pollard at SPollard@sccid.sc.gov.

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

This, the 15th day of March 2024.

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