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Apr 10 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Marion County
The Honorable William H. Seals, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

ISAAC KAREEM HEMINGWAY,

APPELLANT.

Appellate Case No. 2023-000408

**MOTION FOR FIFTH EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a FIFTH 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 Wednesday, April 10, 2024. Counsel for Appellant has graciously consented to this extension request. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances prevented the previous filing of the Initial Brief of Respondent:

The undersigned attorney has had a number of state, and federal matters to attend to since March 7, 2024, including matters in this Court. Specifically:

1. Counsel prepared and filed the Return to Petition for Rehearing in the matter of State of South Carolina vs. James L. Ginther, Appellate Case No. 2019-000672, a Sumter County murder appeal, in this Court on **Thursday, March 7, 2024**, which this Court

subsequently denied the petition for rehearing and the appellant has filed a Petition for Writ of Certiorari in the South Carolina Supreme Court, which will be further discussed below;

2. Counsel filed the Appellees/Respondents' Renewed Motion to Grant It Access to Unredacted & Sealed Joint Appendix Volume XIX to Citations to the Matters in Appellant/Petitioner's Reply Brief in the capital matter of Stephen C. Stanko vs. Bryan P. Stirling, et al., Nos. 22-2 & 22-3 on **Friday, March 8, 2024** in the United States Court of Appeals for the Fourth Circuit;

3. Counsel also **prepared for, traveled to, conducted oral argument** in the United States Court of Appeals for the Fourth Circuit in the capital matter of Stephen Stanko vs. Bryan Stirling, et al., Case Nos. 22-2 & 22-3 on **Tuesday, March 19, 2024 in Richmond, Virginia**;

4. Counsel filed the Respondent's Response to Motion to Expand the Record [ECF #55], and also filed a Response to Petitioner's Motion for Order to Preserve Records and to Cease Fraudulent Concealment [ECF #56], in the matter of Alonzo C. Jeter vs. Warden, Wilfredo Martell, C/A No. 9:23-03253-MGL-MHC on **March 11, 2024** in the United States District Court;

5. Counsel filed the Respondent's Amended Return and Memorandum of Law in Support of Motion for Summary Judgment, and Amended Motion for Summary Judgment as per the Federal Magistrate's Text Order ECF #57 in the matter of Milciades Alcantara vs. Warden of McCormick Correctional Institution, C/A No. 9:21-01498-RBH-MHC in United States District Court on **March 13, 2024**;

6. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Tyrone Jenkins, #260214 vs. Warden, Allendale

Correctional Institution, C/A No. 2:23-04993-SAL-MGB in United States District Court on **March 21, 2024**;

7. Counsel prepared and filed the Initial Brief of Respondent in the matter of State vs. Quayshaun X. Clark, Appellate Case No. 2022-000962, a Lexington County murder appeal matter in this Court, the South Carolina Court of Appeals, which was filed on **Friday, March 29, 2024**;

8. Counsel filed the Respondent's Response to Text Order ECF #30 in the matter of Jamaal Hinson v. Bryan Stirling, C/A No. 1:23-3906-MGL-SVH on in United States District Court on **April 3, 2024**;

9. Counsel is currently preparing the Return to Petition for Writ of Certiorari in the Sumter County murder appeal from this Court of State vs. James L. Ginther, Appellate Case No. 2024-000516. Same is currently pending in the South Carolina Supreme Court and is due to be filed on **May 2, 2024**;

10. Counsel is currently preparing the Initial Brief of Respondent in the matter of State vs. Derrick A. McIlwain, Appellate Case No. 2022-001425 – a Lancaster County murder appeal now currently pending in this Court and due to be filed on or before **May 8, 2025**;

11. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary in the matter of Hector Camo Villafuerte vs. Warden of Evans Correctional Institution, C/A No. 9:23-05846-JDA-MHC. Same is due to be filed on or before **May 1, 2024** and no further extensions will be permitted;

12. Counsel also prepared the Reply to the Response in Opposition to Motion for Summary Judgment [ECF #69] in the matter of Milciades Alcantara vs. Warden of McCormick

Correctional Institution, C/A No. 9:21-cv-1498-RBH-MHC (Armed Robbery, Kidnapping, & CSC) and filed today, **April 8, 2024**; in United States District Court, and

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

A law clerk has been assigned to assist Respondent's attorney in the completion of this brief.

WHEREFORE, for extraordinary circumstances shown, counsel respectfully requests a FIFTH 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 May 10, 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

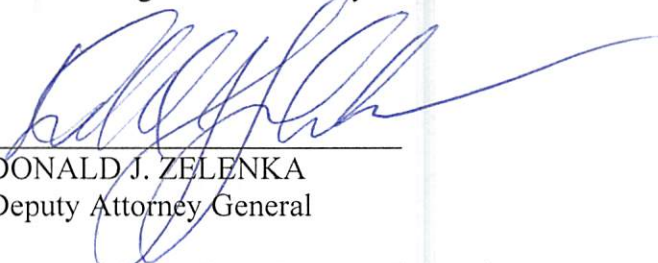
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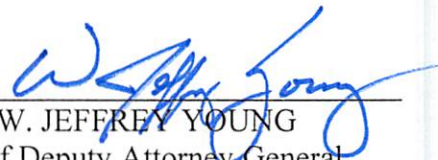
By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

April 10, 2024.

I 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 FIFTH Extension of Time to File Initial Brief of Respondent and Designation of Matter has been forwarded to Appellant's counsel, Jillian Lesley, Esq., via email today, April 10, 2024 to jill@franklinbestlaw.com

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

This 10th day of April, 2024.

s/ Donna D'Alessio
Donna D'Alessio, Legal Assistant to
J. Anthony Mabry
Senior Assistant Attorney General
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