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May 09 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Greenville County  
The Honorable Edward W. Miller, Circuit Court Judge

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THE STATE,

RESPONDENT,

v.

RAY L. KELLY,

APPELLANT.

Appellate Case No. 2022-001449

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

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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. Counsel for Appellant has graciously consented to extension requests through May 31, 2024. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

Respondent's Initial Brief and Designation of Matter is due to be filed on Monday, May 13, 2024. The undersigned attorney has had a number of state, and federal matters to attend to since April 9, 2024. Specifically:

1. Counsel filed the Respondent's Reply to Petitioner's Objections to the Report and Recommendation [ECF #49] in the matter of Chad Stalnaker vs. Warden Martell of MacDougall, C/A No. 5:23-01335-BHH on April 10, 2024;
2. Counsel prepared the Amended Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of George S. Branham, II vs. Bryan Stirling, et al., C/A No. 0:23-745-SAL-PJG, as per TEXT Order [ECF #44] on April 12, 2024;
3. Counsel filed the Respondent's Response in Opposition to Petition for Bail Order [ECF #34] in the matter of Comest Sabatino Allen vs. William Langdon, Warden of Allendale Correctional Institution, C/A No. 9:23-00990-TMC-MHC on April 16, 2024;
4. Counsel filed the Respondent's Reply to Objections to the Report and Recommendation [ECF #58] in the matter of James C. Whaley vs. Nick Gallam, 4:23-cv-2473-JDA-TER on April 25, 2024;
5. Counsel also filed the Reply to Response in Opposition to Motion for Summary Judgment [ECF #45] in the matter of Darrell L. Goss vs. Shane D. Jackson, 2:23-cv-722-BHH-MGB on April 25, 2024;
6. Counsel appeared for oral argument on behalf of the State in the South Carolina Supreme Court in the matter of The State vs. Devin Jamel Johnson, Appellate Case No. 2023-000131, a Charleston County murder appeal matter on Thursday, May 2, 2024;
7. Counsel filed the Respondent's Response in Opposition to Applicant's Rule 59(e) motion in the matter of Patrick B. Walker, #296176 vs. State of South Carolina, 2022-CP-23-1759 on May 6, 2024; counsel has also drafted and submitted the proposed Amended Order of Dismissal in this matter;

8. Counsel also appeared for oral argument on behalf of the State in the matter of The State vs. Michael C. Barclay, Appellate Case No. 2021-000976, a Florence county murder appeal matter now pending in the South Carolina Court of Appeals. Said argument took place on Wednesday, May 8, 2024;

9. Counsel is also preparing the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #62] in the matter of George S. Branham, II vs. Bryan Stirling, Director, South Carolina Department of Corrections; Shane Jackson, Warden, Lee Correctional Institution, C/A No. 0:23-745-SAL-PJG. Same is due to be filed on Monday, May 13, 2024; and

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

WHEREFORE, for the following circumstances, 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 on June 12, 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

W. JOSEPH MAYE  
Assistant Attorney General  
S.C. Bar No. 100851

Office of the Attorney General

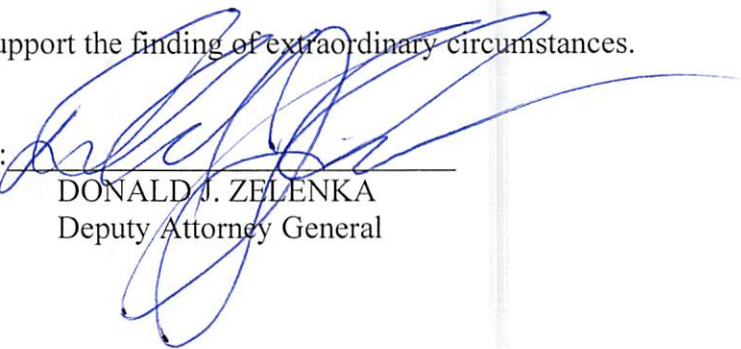
Post Office Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-6305

By: s/W. Joseph Maye  
W. JOSEPH MAYE  
ATTORNEYS FOR RESPONDENT

May 9, 2024.

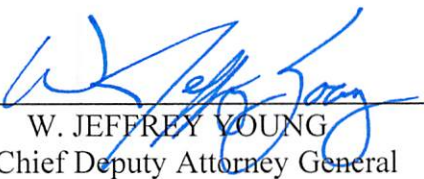
I support the finding of extraordinary circumstances.

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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RAY L. KELLY,

APPELLANT.

Appellate Case No. 2022-001449

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**PROOF OF SERVICE**

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I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to W. Joseph Maye, 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, Joanna K. Delany, Esq., via email today, May 9, 2024 to [Jdelany@sccid.sc.gov](mailto:Jdelany@sccid.sc.gov) and to her assistant at [kwarren@sccid.sc.gov](mailto:kwarren@sccid.sc.gov).

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

This 9<sup>th</sup> day of May, 2024.

*s/ Donna D'Alessio*  
\_\_\_\_\_  
Donna D'Alessio, Legal Assistant to  
W. Joseph Maye,  
Assistant Attorney General  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211-1549  
(803) 734-6305

## **Donna D'Alessio**

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**From:** Donna D'Alessio  
**Sent:** Thursday, May 9, 2024 3:02 PM  
**To:** Delany, Joanna; kwarren@sccid.sc.gov  
**Subject:** Kelly, Ray L. - Appellate Case No. 2022-001449 - Motion for Fifth Extension of time to file Initial Brief of Respondent  
**Attachments:** Kelly, Ray L. - Appellate Case No. 2022-001449 - Motion for Fifth Extension of Time to file IBOR 5-9-24 (03576312xD2C78).pdf

Dear Ms. Delany:

Attached is the Motion for Fifth Extension of Time to file the Initial Brief of Respondent regarding the above matter. Same is being filed with the South Carolina Court of Appeals today.

Thank you.

Donna D'Alessio,  
Legal Assistant  
Office of the Attorney General  
State of South Carolina  
Post Office Box 11549  
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(803) 734-6305