

**RECEIVED**

**Jun 27 2024**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Charleston County  
Honorable Deadra L. Jefferson, Circuit Court Judge  
Appellate Case No. 2023-001978

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THE STATE,

Appellant,

vs.

JOSHUA FELIPE SIMMONS,

Respondent.

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

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

**I.**

The Initial Brief of Appellant and Designation of Matter are due to be served and filed on June 27, 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 **third** 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 counsel submitted a return to a **pro se** filing at the request of the Supreme Court in **Michael**

Anthony Breyan v. State and a Return to Petition for Writ of Certiorari in the Supreme Court in State v. Mark Anthony Gilbert. Additionally, in the past few weeks, the undersigned counsel has participated in oral argument before the Supreme Court in State v. Jason Edwin Stoots; has participated in oral argument before the Court of Appeals in State v. Ricky Benard Brown and Marcus Wright v. State; has prepared for and assisted with a criminal contempt trial conducted in the South Carolina Supreme Court; and has submitted an Initial Brief of Respondent and Designation of Matter in the Court of Appeals in State v. Anthony Bernard Morris and State v. Terrio Jacquard Thomas. Along with that, the undersigned counsel has attended to other responsibilities—including supervisory and administrative ones—in the office and has presented at a continuing legal education seminar for solicitors throughout the state at the request of the South Carolina Commission on Prosecution Coordination.

### III.

The undersigned counsel submits this extension request is supported by good cause and is not intended for purposes of delay. The Brief in the above-referenced State's appeal involves an important search and seizure issue. 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**, Appellant prays that the Court extend the deadline for the service and filing of the Initial Brief of Appellant 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 Appellant'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

June 27, 2024

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**PROOF OF SERVICE**

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I, Caroline Collins, certify I have served the within Motion for the Third Extension of Time Within Which to Serve and File Initial Brief of Appellant and Designation of Matter on Respondent by sending an electronic copy via email to the address listed in AIS for the following individual:

Sarah Elizabeth Shipe, Esquire  
S.C. Commission on Indigent Defense  
1330 Lady Street, Suite 401  
Columbia, South Carolina 29201

I further certify all parties required by Rule to be served have been served.  
This 27<sup>th</sup> day of June, 2024.



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CAROLINE COLLINS  
Administrative Support Manager  
Office of the Attorney General