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Jul 05 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County
The Honorable R. Lawton McIntosh, Circuit Court Judge
Appellate Case No. 2023-001066

THE STATE,

Respondent,

vs.

TONY AVELLA SANDERS,

Appellant.

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

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 July 5, 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 **fifth** extension in the above-referenced criminal appeal and asks for an additional thirty days to complete the brief in this case. Since the last extension, counsel has filed a Final Brief of Respondent in The State v. Nyasia Marie Grant (2023-000696); has filed an

Initial Brief of Respondent and Designation of Matter in The State v. Shemual Nahum Ben Yisrael (2022-001044); has filed a Return to Petition for Writ of Certiorari in the South Carolina Supreme Court in David James Welch v. State of South Carolina (2023-000811); and has filed a Petition for Rehearing in The State v. Shawn Douglas Custer (2019-000292).

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 has required significant research because the case involves two important issues. 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. 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.

IV.

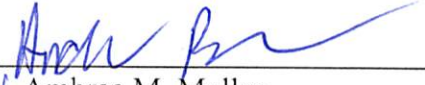
Please be advised that the State and Appellate Defense continue to consent to any requests for extensions or out-of-time filings. This limited consent applies to requests up to and including July 31, 2024.

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.

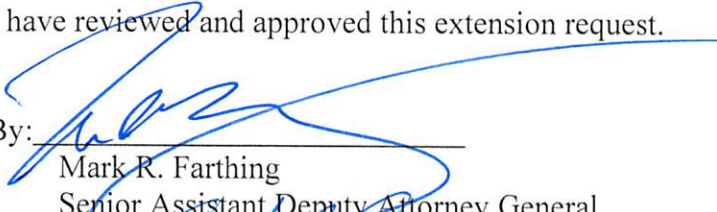
Respectfully submitted,

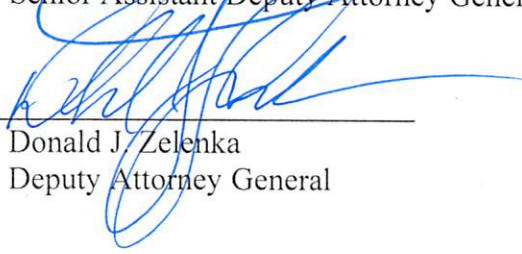
ALAN WILSON
Attorney General

AMBREE M. MULLER
Assistant Attorney General

By: 
fol Ambree M. Muller
S.C. Bar Number 104213

I have reviewed and approved this extension request.

By: 
Mark R. Farthing
Senior Assistant Deputy Attorney General

By: 
Donald J. Zelenka
Deputy Attorney General

July 5, 2024

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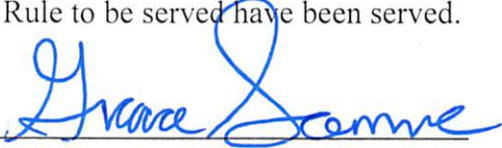
Appellant.

PROOF OF SERVICE

I, Grace Sommer, certify I have served the within Motion for Fifth 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 address listed in AIS for the following individual:

Wanda H. Carter, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify all parties required by Rule to be served have been served.
This 5th day of July, 2024.


GRACE SOMMER
Legal Assistant
Office of the Attorney General