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Jul 23 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Dorchester County
The Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

ANTHONY NICHOLAS ARGOE,

APPELLANT.

Appellate Case No. 2023-000223

**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 tomorrow, Wednesday, July 24, 2024. Counsel for Appellant has graciously consented to extension requests through July 31, 2024. In support of this motion, undersigned 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 June 21, 2024, including matters in this Court, that prevented the filing of the Initial Brief of Respondent. Specifically:

1. Counsel filed the Respondent's Reply to Objections to Report and Recommendation [ECF #79] in the matter of Milciades Alcantara vs. Warden of McCormick Correctional Institution, C/A No. 9:21-01498-DCC (Federal Habeas Corpus) on **June 20, 2024**;

2. Counsel filed a supplemental authorities letter in the United States Court of Appeals for the Fourth Circuit in the capital matter of Stephen C. Stanko vs. Bryan Stirling, et al., Case No. 22-3 on **June 21, 2024**;

3. Counsel filed the Respondent's Reply to Response to Motion for Summary Judgment [ECF #51] in the matter of Steven W. Oxendine, #383737 vs. Warden of Evans Correctional Institution, C/A No. 2:23-00160-SAL-MGB on **July 8, 2024**;

4. Counsel filed the Respondent's Reply to Response to Opposition to Motion for Summary Judgment [ECF #53] in the matter of Steven W. Oxendine, #383737 vs. Warden of Evans Correctional Institution, C/A No. 2:23-00160-SAL-MGB on **July 12, 2024**;

5. Counsel prepared and filed the Initial Brief of Respondent in the Marion County murder (2 counts)/weapons possession appeal matter of State vs. Isaac Kareem Hemingway, Appellate Case No. 2023-000408 which is currently pending in the South Carolina Court of Appeals, which contained five (5) issues, and Respondent worked on this brief almost exclusively for four (4) and one-half ½ weeks and the Brief of Respondent was 62 pages in length, and same was filed on **Friday, July 12, 2024**; and

6. Counsel is currently working on the Return and Memorandum of Law in Support of Summary Judgment in Michael Young v. Warden, a federal habeas matter, where the petitioner was convicted of murder and ABWIK;

7. Counsel assisted in the preparation of a murder trial, State v. Devonte Page, on July 22, 2024, to be conducted next week in Dillon County, July 29, 2024, prosecuted by the Attorney General's Office; and

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

A law clerk has been assigned to assist Respondent's attorney on this brief to help complete the Initial Brief of Respondent.

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 August 23, 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

J. ANTHONY MABRY
Senior Assistant Attorney General
S.C. Bar No. 11973

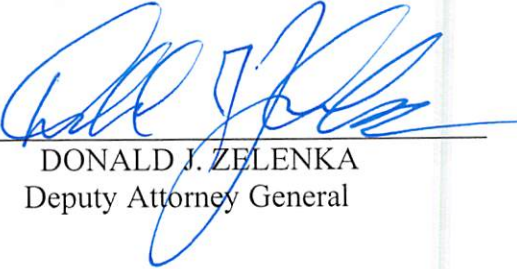
Office of the Attorney General
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Columbia, South Carolina 29211-1549
(803) 734-6305

By: s/J. Anthony Mabry

J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

July 23, 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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Appellate Case No. 2023-000223

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, Robert M. Dudek, Esq., Esq., via email today, July 23, 2024 to RDudek@sccid.sc.gov and to his assistant at spollard@sccid.sc.gov.

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

This 23rd day of July, 2024.

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