

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Aug 15 2024

SC Court of Appeals

Appeal from Horry County
The Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

v.

RANDY DEAN GRAINGER,

APPELLANT.

Appellate Case No. 2023-000598

**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. Counsel for Appellant has graciously consented to extension requests through August 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 tomorrow, August 16, 2024. The undersigned attorney has had a number of state, and federal matters to attend to since July 15, 2024. Specifically:

1. Counsel filed a Status Report in the matter of Abdiyyah Ben Alkebulanyahh vs. William R. Byars, Jr., Commissioner SCDC, and Brian Kendall, Warden of Lieber Correctional

Institution, No. 15-3, a capital federal habeas matter now pending in the United States Court of Appeals for the Fourth Circuit on Monday, July 15, 2024;

2. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Joseph Elijah Mills, #376644 vs. Warden Cohen, C/A No. 4:24-cv-963-MGL-TER on July 17, 2024;

3. Counsel filed the Amended Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Aryee Henderson vs. Warden Shane Jackson, C/A No. 4:23-cv-3458-SAL-TER, as per ECF #48 on July 18, 2024;

4. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #21] in the matter of Troy D. Hunter vs. Levern Cohen, Warden of Ridgeland Correctional Institution, C/A No. 4:24-cv-547-DCN-TER on July 19, 2024;

5. Counsel filed the Reply to Petitioner's Objections to the Report and Recommendation [ECF #34] in the matter of Chris Anthony Liverman vs. South Carolina Department of Corrections, Warden of Tallahatchie County Correctional Facility, C/A No. 9:23-3205-JD on July 24, 2024;

6. Counsel prepared and filed the Respondent's Motion and Memorandum to Prohibit Ex Parte Funding Requests and Orders in the Beaufort County capital Post-Conviction Relief matter of Abidiyyah Ben Alkebulanyahh, #6012, a/k/a Tyree Roberts vs. State of South Carolina, C/A No. 2014-CP-07-2994 on July 25, 2024;

7. Counsel prepared the Brief in Opposition in the capital matter of Steven Vernon Bixby vs. Bryan Stirling, No. 23-7641, a capital matter now pending in the United States Supreme Court on August 2, 2024;

8. Counsel filed the Reply to Response in Opposition to Motion for Summary Judgment [ECF #30] in the matter of David A. Bowers vs. Warden William Langdon, III, C/A No. 0:24-cv-287-JD-PJG on August 9, 2024;

9. Counsel filed the Respondent's Response in Opposition to Motion for Disclosure [ECF #24] in the matter of Mickey M. Johnson vs. Warden, Broad River Correctional Institution, C/A No. 0:24-cv-1623-TMC-PJG on August 12, 2024;

10. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Mickey M. Johnson vs. Warden, Broad River Correctional Institution, C/A No. 0:24-cv-1623-TMC-PJG, also on August 12, 2024;

11. Counsel filed the Respondent's Reply to Objections to Report and Recommendation [ECF #56] in the matter of Earnest Vaughn v. Warden Turbeville Correctional Institution, C/A 6:23-04220-TLW-KFM on August 12, 2024;

12. Counsel filed the Respondent's Response in Opposition to Petitioner's Motion for Preliminary Injunction [ECF #54], in the matter of Earnest Vaughn v. Warden Turbeville Correctional Institution, C/A 6:23-04220-TLW-KFM on August 12, 2024;

13. Counsel filed the Respondent's Response in Opposition to Motion for Clarification, [ECF #26] in the matter of Mickey M. Johnson vs. State of South Carolina, C/A No. 0:24-1623-TMC-PJG on August 14, 2024;

14. Counsel also filed the Respondent's Response in Opposition to Motion for USDC to Retain Jurisdiction , [ECF #25] in the matter of Mickey M. Johnson vs. State of South Carolina, C/A No. 0:24-1623-TMC-PJG on August 14, 2024;

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

WHEREFORE, for the following extraordinary 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 September 16, 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

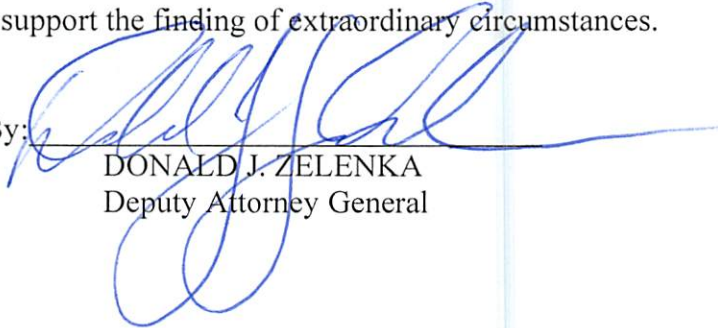
W. JOSEPH MAYE
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By: s/W. Joseph Maye
W. JOSEPH MAYE
ATTORNEYS FOR RESPONDENT

August 15, 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 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, Lara M. Caudy, Esq., via email today, August 15, 2024 to lcaudy@sccid.sc.gov and to her assistant at smcinnis@sccid.sc.gov.

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

This 15th day of August, 2024.

s/ Donna D'Alessio
Donna D'Alessio, Legal Assistant to
W. Joseph Maye,
Assistant Attorney General
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