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Aug 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 SIXTH EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER, AND
MOTION TO HOLD IN ABEYANCE UNTIL COURT RULES ON MOTION TO
SUPPLEMENT THE RECORD**

The undersigned counsel would respectfully request a SIXTH 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 today, Friday, August 23, 2024. Counsel for Appellant has graciously consented to extension requests through August 31, 2024.

Counsel also filed a Motion to Supplement the Record Pursuant to Rule 212(a)&(b), SCACR on August 15, 2024 in this appellate matter and would move this Court to hold the time period the Initial Brief of Respondent is due in abeyance until this Court rules on the Motion to Supplement the Record.

In support of the Motion for an Extension, 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 July 24, 2024, including matters in this Court. Specifically:

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

2. Counsel also filed the Reply to Objections to Report and Recommendation [ECF #63] in the matter of Jon W. Jarrard vs. Warden Wilfredo Martell, C/A No. 5:23-cv-2588-SAL-KDW on **August 2, 2024**;

3. Counsel filed the Reply to Response in Opposition to Motion for Summary Judgment [ECF #27] in the matter of Calvin T. Williams vs. Warden of Perry Correctional Institution, C/A No. 9:24-cv-457-JFA-MHC on **August 9, 2024**;

4. Counsel filed the Respondent's Response to Objections to Report and Recommendation [ECF #46] in the matter of Malcolm Antwon Williams, #372578 vs. Wilfredo Martell, Warden, C/A No. 4:23-1833-DCC on **August 12, 2024**

5. Counsel filed the Respondent's Response to Motion [ECF #135] in the matter of Ron Santa McCray vs. Warden of Lieber Correctional Institution, C/A No. 1:22-1204-TLW, also on **August 12, 2024**;

6. Counsel prepared and filed a Motion to Strike and Require Filing of Amended Initial Brief of Appellant in the matter of State vs. Antonio D. Brayboy, Appellate Case No.

2023-001182, a Florence County murder appeal matter now pending in this Court on **August 14, 2024**;

7. Counsel filed a Motion to Supplement the Record Pursuant to Rule 212(a)&(b), SCACR, with attachments, in this matter on **August 15, 2024**;

8. Counsel prepared and filed the Return and Memorandum of Law in Support of Summary Judgment in Michael Young v. Warden, (Murder & ABWIK) a federal habeas matter, where the petitioner was convicted of murder and ABWIK and no further extensions were permitted. Same was filed on **August 16, 2024**;

9. Counsel is currently preparing the Initial Brief of Respondent in the matter of State vs. Antonio D. Brayboy, Appellate Case No. 2023-001182, a Florence County murder appeal matter now pending in this Court;

10. Counsel is currently preparing and completing the Initial Brief of Respondent in State v. Ernest Bethel, a Richland County murder appeal pending in this Court, the brief is to be filed **August 29, 2024**;

12. Counsel is also preparing the Initial Brief of Respondent in State v. Jejauncey Harrington (Murder 2 counts) which is pending before this Court;

13. Counsel prepared the Response to Objections to the Report and Recommendation in Alonzo Jeter v. Warden (Federal Habeas Corpus matter) filed today **August 23, 2024** in United States District Court;

14. Counsel assisted in the preparation of a murder case on August 21, 2024, set for trial in September in Greenville County, State v. Blauvelt;

15. Counsel filed the State Court Records (Five Notices) in the capital Georgetown matter of Stephen Stanko vs. Bryan P. Stirling and Lydell Chestnut, C/A No. 1:24-cv-4109-

RMG-SVH, pursuant to ECF #12 on Thursday, August 22, 2024 and today, August 23, 2024 and,

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

As previously stated, Respondent has filed a Motion to Supplement the Record in this case to ensure the timely filing of the Brief of Respondent as that Motion to Supplement deals with the very issue raised on appeal.

WHEREFORE, for extraordinary circumstances shown, counsel respectfully requests a SIXTH 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 September 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


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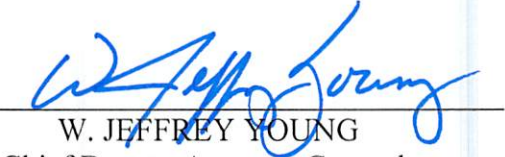
By: s/J. Anthony Mabry
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

August 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 SIXTH 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, August 23, 2024 to RDudek@sccid.sc.gov and to his assistant at kwarren@sccid.sc.gov.

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

This 23rd day of August, 2024.

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