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Oct 07 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County
R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DIONICIO NAVA ABARCA,

APPELLANT

APPELLATE CASE NO. 2024-000180

MOTION FOR AN EXTENSION OF TIME TO
SERVE AND FILE THE INITIAL BRIEF OF APPELLANT
AND DESIGNATION OF MATTER

Counsel for Dionicio Nava Abarca respectfully requests a **fifth and final thirty (30) day extension from October 7, 2024 until November 6, 2024**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in the above-referenced case. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a fifth request for an extension. In support of this request, counsel shows:

1. The Initial Brief of Appellant and Designation of Matter in this case are due to be served and filed with the Court today.

2. Counsel for Dionicio Nava Abarca respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage his caseload, counsel hopes that no further extension requests will be required.

3. Counsel filed the Petition for Writ of Certiorari and the Appendix in the case of Zachary Deon McClain v. The State with the Supreme Court on October 4, 2024. Counsel filed the Brief of Appellant and Record on Appeal in the murder case of The State v. Christopher Chad Duncan with this Court on October 1, 2024. Counsel filed the Initial Brief of Appellant and Designation of Matter in the murder case of The State v. James J. Patterson, III with this Court on September 16, 2024. On September 16, 2024, counsel and co-counsel Lara Caudy also filed a Motion to Strike the Petition for Rehearing and Rehearing *en banc* in State v. Kierin Dennis with this Court. Counsel appeared for Oral Argument in the case of The State v. Bowen Gray Turner (In re: Victim C.B., Appellant.) (2022-000472) and The State v. Bowen Gray Turner (2022-001018) before this Court on September 10, 2024. Counsel filed the Petition for Writ of Certiorari and the Appendix in the case of Eddie L. Bass, III v. The State with the Supreme Court on September 6, 2024. Counsel filed the Return to Motion to Supplement the Record on Appeal in the case of The State v. Anthony Nicholas Argoe with this Court on August 30, 2024. Counsel filed the Brief of Appellant and Record on Appeal in the case of The State v. Terry Donial Woods, Jr. with this Court on August 28, 2024. Counsel filed the Brief of Appellant and Record on Appeal in the case of The State v. Aaron Sincere Hood with this Court on August 12, 2024. Counsel filed the Brief of Appellant and the Record on Appeal in the case of The State v. Timothy J. McKinney with this Court on August 2, 2024. Counsel is also concluding work on his Case Law Update presentation at South Carolina Public Defender's Association Convention, which is October 14-16, 2024, in North Myrtle Beach, South Carolina. **Appellate Defense is currently two attorneys short. Counsel has extensive administrative duties as the Chief Appellate Defender, including carrying a full caseload. Counsel endeavors to hire two new appellate defenders as well as a new assistant to the present appellate defenders. Counsel**

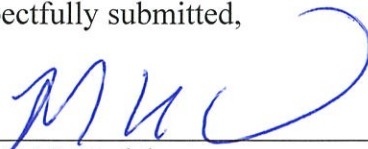
regrets the need for this fifth extension, but it is respectfully necessary given counsel's present workload and administrative responsibilities.

4. Counsel makes this request in good faith and not for purpose of delay. Counsel intends to continue to work on the cases with more than three extensions first so that the caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

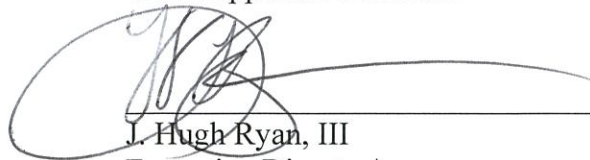
5. On September 29, 2024, opposing counsel, the Attorney General's Office, graciously consented to this extension request by way of general consent granted in writing, by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through October 31, 2024.

WHEREFORE, the undersigned counsel would respectfully request a **fifth and final thirty (30) day extension from October 7, 2024 until November 6, 2024**, in which to serve and file the Initial Brief of Appellant and Designation of Matter in this case based upon the above exigent circumstances.

Respectfully submitted,



Robert M. Dudek
Chief Appellate Defender



J. Hugh Ryan, III
Executive Director/
Hervey B. O. Young
Deputy Director and General Counsel/
W. Lawrence Brown
Deputy General Counsel and Training Director

This 7th day of October, 2024.

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APPELLATE CASE NO. 2024-000180

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion for Extension in the above-referenced case has been served upon Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 7th day of October, 2024.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

From: [Warren, Kaylynn](#)
To: [SC - BROWN MELODY](#)
Cc: [Dudek, Robert](#); [Angela Brown](#)
Subject: 2024-000180 The State v. Dionicio Nava Abarca
Date: Monday, October 7, 2024 10:16:00 AM
Attachments: [2024-000180 The State v. Dionicio Nava Abarca Fifth Motion for Extension.pdf](#)

Good Morning,

Attached for service in the above-referenced case is the Fifth Motion for Extension which will be filed today, October 7, 2024, with the Court of Appeals via email filing.

Respectfully,

Kaylynn

Kaylynn Warren

Administrative Assistant

South Carolina Commission on Indigent Defense

Division of Appellate Defense

(803) 734-1330