

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Richland County
The Honorable Jocelyn Newman, Circuit Court Judge

THE STATE,

Respondent,

v.

JAMES JAMAL TOATLEY,

Appellant.

Appellate Case No. 2023-001059

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

Undersigned counsel would respectfully request a thirty (30) day extension in which to serve and file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. Opposing counsel has graciously consented to all extension requests through October 31, 2024. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief and Designation of matter are due today, October 11, 2024, according to this Court's Order dated September 16, 2024, granting Respondent's fourth extension request. The undersigned counsel for Respondent, however, has had a number of state and federal matters to attend since the last extension, most notably in capital cases. In particular, counsel has in the last thirty days: prepared and filed an expedited response in opposition to second motion to stay the execution and a return to the petition for writ of habeas corpus in the original jurisdiction

of the Supreme Court ¹ (*Freddie Owens, September 11, 2024*); prepared and filed status reports in capital cases stayed in the federal district court (*Anthony Woods, September 13, 2023; Bayan Aleskey and James Roberts, September 16, 2024*); prepared and filed a return with memorandum of law in support of motion for summary judgment, and also filed a motion to strike materials outside the state court records and any arguments and references to same in petitioner's filings, in a capital federal habeas corpus action (*Andres Torres, September 18, 2024*); prepared and filed a return to motion for reconsideration (second motion for stay of execution) (*Freddie Owens, September 19, 2024*); prepared and filed a response opposing authorization for successive 28 U.S.C. § 2254 action, and response in opposition for motion to stay execution, both in the Fourth Circuit Court of Appeals and expedited for response given the filings were made on the day of the scheduled execution (*Freddie Owens, September 20, 2024*); prepared and filed a response in opposition to motion to stay proceedings in a non-capital federal habeas action and a reply to the petitioner's response in opposition to the respondent's motion for summary judgment (*Mark Lorenzo Blake, September 25, 2024*); prepared and filed an amended return in a capital federal habeas corpus action (*Andres Torres, September 26, 2024*); completed and filed a brief of petitioner in a post-conviction relief appeal (*Angelo Taylor, September 30, 2024*); prepared and filed a status report in a federal habeas corpus action (*Carnie Norris, October 1, 2024*); completed and filed a final brief of respondent in a non-capital murder direct appeal (*Timothy F. Green, October 1, 2024*); prepared and filed an updated status report in federal habeas actions showing petition for writ of certiorari in state PCR appeal was denied (*Carnie Norris, October 3, 2024*); aided in the drafting and preparation of a motion to reconsider denial of motion to supplement the

¹ The execution was scheduled for September 20, 2024, and ultimately did take place on that day.

record in a non-capital murder direct appeal (*Anthony Nicholas Argoe, October 3, 2024*); prepared for and presented oral argument in a non-capital murder direct appeal in this Court (*Charles Carmichael, October 9, 2024*); prepared for and completed a motion hearing and two evidentiary hearings in the Greenville County Courthouse in three Thirteenth Circuit PCR actions (*Jahru Smith; Mark Keys; Keldrekus Oglesby, October 10, 2024*); and, prepared for and participated in a telephone status conference in a pending non-capital federal habeas action previously stayed for completion of state remedies (*Carnie Norris, October 11, 2024*). Further, counsel is currently working on a brief in opposition to a petition for writ of certiorari filed in the Supreme Court of the United States by a death-sentenced inmate (*Richard Bernard Moore*).²

Due to counsel's involvement in the above listed matters, and other matters pending in state and federal court not completed and listed, and also considering counsel's administrative responsibilities as supervisor for murder appeals, federal habeas corpus actions, capital litigation, and Thirteenth Circuit PCR actions and appeals, counsel has been unable to timely complete the Initial Brief of Respondent and Designation of Matter.

WHEREFORE, counsel respectfully requests a 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.

Respectfully Submitted,


ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

² The execution is scheduled for Friday November 1, 2024.

MELODY J. BROWN
Senior Assistant Deputy Attorney General

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

By: 
MELODY J. BROWN
S.C. Bar No: 14244
ATTORNEYS FOR RESPONDENT

October 11, 2024

I support the finding of good cause.

By: _____
DONALD J. ZELENKA
Deputy Attorney General

I, too, support the find of good cause.

By: 
W. JEFFREY YOUNG
Chief Deputy Attorney General

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PROOF OF SERVICE

I as an employee of the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Motion for Extension Time, and Proof of Service has been forwarded to Appellant’s counsel, David Alexander, Esquire, via email today, October 11, 2024 to DAlexander@sccid.sc.gov and to his assistant, Chris Stock, at CStock@sccid.sc.gov.

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

This is the 11th day of October 2024.

s/ Brandy Rankin
Legal Assistant to Melody J. Brown
Senior Assistant Deputy Attorney General

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PROOF OF SERVICE

I as an employee of the Respondent, hereby certify that as per the March 20, 2020 Order of the Chief Justice, the Motion for Extension Time, and Proof of Service has been forwarded to Appellant’s counsel, David Alexander, Esquire, via email today, October 11, 2024 to DAlexander@sccid.sc.gov and to his assistant, Chris Stock, at CStock@sccid.sc.gov.

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

This is the 11th day of October 2024.

s/ Brandy Rankin
Legal Assistant to Melody J. Brown
Senior Assistant Deputy Attorney General

Brandy Rankin

From: Brandy Rankin
Sent: Friday, October 11, 2024 4:27 PM
To: Alexander, David
Cc: Stock, Chris; Melody Brown; Angela Brown
Subject: Motions for Extensions to file Initial Brief of Respondent and Designation of Matter - Marable, Lawless, & Toatley
Attachments: Fifth Motion for Extension to file Initial Brief & DOM, JAMES JAMAL TOATLEY.pdf; Fifth Motion for Extension to file Initial Brief, DOM - ADAM DON LAWLESS.pdf; Third Extension to file Initial Brief & Designation of Matter, Proof of Service, ALONZO MARABLE.pdf

Dear Mr. Alexander,

Please find the Respondent's Motion for Extensions in the cases of The State v. Alonza Marable, The State v. James Toatley, and The State v. Adam Lawless. These documents will be filed with the South Carolina Court of Appeals today, October 11, 2024 along with a copy of this email. Thank you.

Brandy Rankin

Brandy Rankin, Legal Assistant
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803-734-6305



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