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Oct 17 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Florence County
The Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

MASON YARBOROUGH,

APPELLANT.

Appellate Case No. 2023-000694

**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, October 16, 2024. Counsel for Appellant has graciously consented to extension requests up to and including October 31, 2024. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

Respondent has been unable to complete this brief because the undersigned attorney has had a number of other state, and federal matters to attend to since September 13, 2024 including matters in this Court. Specifically:

1. Counsel filed the Respondent's Response to Petitioner's Objections to the Report and Recommendation [ECF #76] in the matter of Antonio Collins vs. Warden of Kirkland Correctional Institution, C/A No. 5:23-3696-DCC-KDW on **September 17, 2024**;
2. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of David Glover, #364163 vs. Warden Lavern Cohen, C/A No. 4:24-2635-MGL-TER, also on **September 17, 2024**;
3. Counsel assisted in responding to pleadings regarding the execution of Freddie Owens on September 20, 2024;
4. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Michael J. Young vs. Warden Brian Kendall, C/A No. 9:24-236-JFA-MHC on **September 26, 2024**;
5. Counsel prepared the Amended Initial Brief of Respondent in the matter of The State vs. Isaac Kareem Hemingway, Appellate Case No. 2023-000408, a Marion County direct appeal murder case filed on **September 30, 2024**;
6. Counsel filed a Motion for Reconsideration in the matter of The State vs. Anthony N. Argoe, Appellate Case No. 2023-000223, a Dorchester County murder appeal matter pending in this court on **October 3, 2024**;
7. Counsel filed the Brief of Respondent in the matter of The State vs. James Elbert Daniels, Jr., Appellate Case No. 2023-001170. An Horry County matter now pending in the South Carolina Supreme Court on **October 15, 2024**;;
8. 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 the South Carolina Court of Appeals;

9. Counsel is also preparing the Initial Brief of Respondent in the matter of The State vs. JeJauncey F. Harrington, Appellate Case No. 2023-000305, a Marlboro County murder appeal now pending in the South Carolina Court of Appeals;

10. Counsel completed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Breon J. Mayers vs. Bryan Stirling, et al., C/A No. 0:24-01240-DCN-PJG;

11. Counsel also completed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Filberto Campos vs. Warden Shane Jackson, C/A No. 8:24-cv-3510-JD-BM; and

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

WHEREFORE, for 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 November 15, 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

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

October 16, 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 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., via email today, October 16, 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 16th day of October, 2024.

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