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Nov 04 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Jasper County
The Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

Respondent,

v.

BENJAMIN WALTER DUBOIS, III,

Appellant.

Appellate Case No. 2023-001307

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

Undersigned counsel would respectfully request a thirty (30) day extension up to and including December 4, 2024 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 November 30, 2024. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief and Designation of matter is due today, November 4, 2024. Pursuant to this Court's Order dated October 4, 2024. Counsel would respectfully ask that the due date be extended 30 days up to and including December 4, 2024. Undersigned counsel for Respondent has had a number of state and federal matters to attend since October 4, 2024, most notably in capital cases. In particular, counsel has in the last thirty days: received, and notified clerks of court of, the execution notice for Richard Bernard Moore (*October 4, 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 post-conviction relief actions (*Jahru Smith; Mark Keys; Keldrekus Oglesby, October 10, 2024*); 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*); prepared for a status conference, and subsequently drafted and submitted a memorandum of law for submission to the court in a capital PCR action (*Jerry Buck Inman, October 17 and 21, 2024*); prepared for and presented argument in a motion hearing in a new trial motion in the Greenville County Courthouse (*Charles Wakefield, October 25, 2024*); prepared for and made a continuing legal education presentation as part of the annual Solicitor's Conference (*October 13-16, 2024*); prepared and filed a brief in opposition to a petition for writ of certiorari in the Supreme Court of the United States (*Richard Bernard Moore*); prepared and filed a status report in a non-capital federal habeas corpus case stayed for exhaustion of state court remedies (*Henry Dukes, October 25, 2024*); traveled to Richmond, Virginia, for argument in the Fourth Circuit Court of Appeals in a capital case on appeal from denial of federal habeas corpus relief (*Stephen Corey Bryant, October 27-29, 2024*); prepared and filed in the Supreme Court of the United States a response opposing an application for stay of execution (*Richard Bernard Moore, October 29, 2024*); aided in the drafting of a proposed order of dismissal in a non-capital PCR action and shared a copy of same with opposing counsel (*Clyde Davis, October 31, 2024*); completed final notices and matters in regard to the Moore execution (*Richard Bernard Moore, November 1, 2024*). Further, counsel is presently completing an intellectual disability, allegation of new evidence issue, for a post-hearing brief in a capital PCR case to be filed tomorrow, November 5, 2024 (*Ricky Blackwell*).

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.

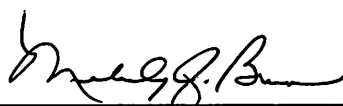
Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

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

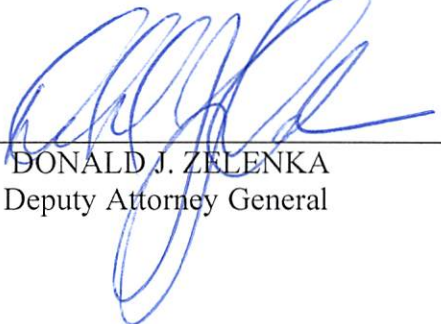
By: 

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


[signature page continues next page]

November 4, 2024

I support the finding of good cause.

By: 
DONALD J. ZELENKA
Deputy Attorney General

I, too, support the finding of good cause.

By: 
W. JEFFREY YOUNG
Chief Deputy Attorney General

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Appellate Case No. 2023-001307

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, Kathrine Haggard Hudgins, Esquire, via email today, November 4, 2024 to KHudgins@sccid.sc.gov and to her 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 4th day of November 2024.

s/ Brandy Rankin
Legal Assistant

Brandy Rankin

From: Brandy Rankin
Sent: Monday, November 4, 2024 4:26 PM
To: Hudgins, Kathrine
Cc: Stock, Chris; Melody Brown
Subject: The State v. Benjamin Walter Dubois, III - Third Motion for Extension to file Initial Brief of Respondent and Designation of Matter - 2023-001307
Attachments: Third Extension to file Initial Brief & Designation of Matter - Benjamin Walter Dubois - 11-4-24.pdf

Dear Ms. Hudgins,

Please find attached the Respondent's third extension request to file the Initial Brief and Designation of Matter, along with the Proof of Service. These documents will be filed today, November 4, 2024, along with a copy of this email. Thank you!

Sincerely,
Brandy Rankin

Brandy Rankin, Legal Assistant
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
803-734-6305



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