

RECEIVED

Dec 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 FOURTH 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 January 3, 2025, 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 December 31, 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, December 4, 2024, pursuant to this Court's Order dated November 5, 2024. Undersigned counsel for Respondent has had a number of state and federal matters to attend since the last order. In particular, counsel has in the last thirty days: completed, with co-counsel, the post-hearing brief in a capital PCR action and submitted same to the presiding judge (*Ricky Blackwell, November 5, 2024*); prepared and filed a reply in a federal habeas corpus action (*Marion Frye, Nov. 13, 2024*); prepared and filed a

motion to dismiss a successive PCR action (*Freddie Owens, November 13, 2024*); prepared and filed a reply in a federal habeas corpus action (*Derek Maner, November 14, 2024*); prepared and filed an amended return and motion for summary judgment in a federal habeas corpus action (*Mark Blake, November 15, 2024*); prepared and filed a status report in a capital federal habeas corpus action (*James Robertson, November 18, 2024*); completed and filed the initial brief of appellant in a non-capital murder direct appeal (*Robert Belcher, November 18, 2024*); prepared and filed a response in opposition to a Rule 59 motion in a capital federal habeas action (*William Dickerson, November 19, 2024*); prepared and filed a consent motion for scheduling order in a federal habeas corpus action (*Steven Gilliam, November 21, 2024*); prepared and filed a return to petition for writ of supersedeas regarding a criminal matter with multiple counts of murder (*Ryan Manigo, November 22, 2024*); prepared and filed a response in opposition to motion to certify question in a federal habeas corpus action (*Antonio Tisdale, November 25, 2024*); completed and filed the initial brief of appellant in a non-capital murder direct appeal (*Raymond Martinez, November 26, 2024*); prepared and circulated two proposed orders of dismissal in non-capital PCR matters (*Mark Keys and Keldrekus Oglesby, November 27, 2024*); and, is presently preparing for oral argument in this court for tomorrow (*William Williams, scheduled for December 5, 2024*); completing a brief of respondent in an original jurisdiction action in our Supreme Court in a pending litigation case (*John Erb, due to be filed December 6, 2024*); and has also been preparing a return to a motion to stay the issuance of an execution notice (*Steven Bixby, due to be filed December 6, 2024*). Due to counsel's involvement in the 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.

However, acknowledging the number of extensions in this matter, counsel is newly assigning the instant case to another attorney in her unit, Kaylee C. Kemp, Assistant Attorney General, for assistance in the completion of the brief. Ms. Kemp has been actively aiding in the reducing the backlog in filing and has filed several items already in that effort including having: prepared and submitted a proposed order of dismissal in a non-capital PCR (*Braxton Hare, November 15, 2024*); prepared and filed two returns to petitions for writ of certiorari in non-capital PCR cases on appeal (*Jeremy Alan Watson, November 18, 2024; Kevin Mark Willson, November 20, 2024*); prepared and filed a brief of respondent in another non-capital PCR on appeal (*Ronnie C. Swofford, November 20, 2024*); and filed two initial brief in non-capital murder direct appeals (*Adam Don Lawless and Fanotti N. Neal, December 3, 2024*). Counsel will consult on the matter and aid in drafting with the intent of completing an initial brief within the time period request or at the very least reduce the amount of any additional time requested.

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.

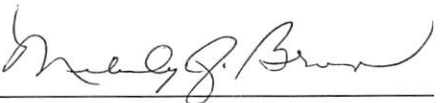
Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

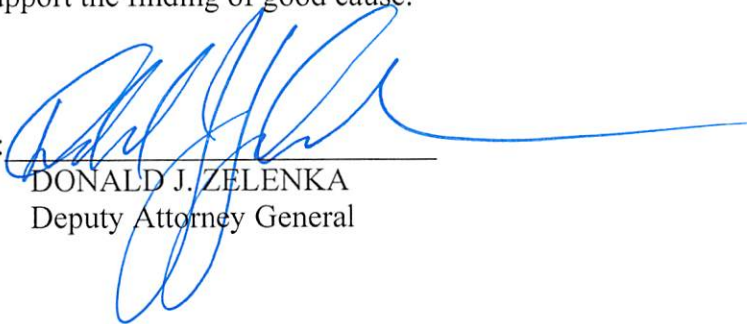
MELODY J. BROWN
Senior Assistant Deputy Attorney General

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

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

December 4, 2024

I support the finding of good cause.

By: 
DONALD J. ZELENKA
Deputy Attorney General

RECEIVED

Dec 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

PROOF OF SERVICE

I, Brandy Rankin, 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 have been forwarded to Appellant's counsel, Kathrine Haggard Hudgins, Esquire, via email today, December 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 December 2024.

s/ Brandy Rankin
Legal Assistant

Brandy Rankin

From: Brandy Rankin
Sent: Wednesday, December 4, 2024 2:52 PM
To: Hudgins, Kathrine
Cc: Melody Brown; Kaylee Kemp; Angela Brown; Stock, Chris
Subject: The State v. Benjamin Walter Dubois, III - Appellate Case No. 2023-001307 - Fourth Extension to file the Respondent's Initial Brief & Designation of Matter
Attachments: Fourth Extension to file Initial Brief & Designation of Matter - DUBOIS (executed).pdf

Dear Ms. Hudgins,

Please find attached the Respondent's Fourth Motion for Extension to file the Initial Brief & Designation of Matter. Also attached is the Proof of Service. These documents will be filed today, December 4, 2024, with the South Carolina Court of Appeals along with a copy of this email. Thanks in advance for your consideration. Have a great day.

Sincerely,
Brandy Rankin

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



This email, together with any attachments, may be legally privileged. If you have received it in error, please notify the sender immediately, and then delete it from your system. This email and any replies to this email may be subject to disclosure under the Freedom of Information Act.