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Dec 13 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Fairfield County
Honorable Bentley Price, Circuit Court Judge
Appellate Case No. 2024-000164

THE STATE,

Respondent,

vs.

CORTEZ JAVAR WHITENER,

Appellant.

**MOTION FOR FOURTH EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter are due to be served and filed on December 13, 2024.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the State moves for a **fourth** extension in the above-referenced criminal appeal and asks for an additional thirty days to complete the brief in this case. Earlier this week, the undersigned submitted a Brief of Respondent in the Court of Appeals in Maurice Roberts v. State and a Final

Brief of Respondent in the Court of Appeals in State v. Ricky Leroy Singer, Jr. Additionally, in the past few weeks, the undersigned counsel participated in oral argument before the Court of Appeals in Levern McCrea v. State; submitted a Return to Common Law Petition for Writ of Certiorari in the Supreme Court in Saire Jerrell Castro v. State; and participated in oral argument before the Court of Appeals in State v. Joseph Martin Swaringen. Along with that, the undersigned counsel has attended to other responsibilities—including supervisory and administrative ones and has prepared for and presented at a continuing legal education seminar for statewide prosecutors on behalf of the South Carolina Commission on Prosecution Coordination.

III.

The undersigned counsel submits this extension request is supported by extraordinary circumstances and is not intended for purposes of delay. The Brief in the above-referenced case involves an important directed verdict issue on appeal. The undersigned counsel is currently working on the Brief in this case and intends to have it finished in a timely manner. However, the undersigned counsel has not yet been able to finish the Brief due to a heavy workload and other unexpected issues that arose requiring the undersigned counsel's attention. Accordingly, in order to ensure the Brief is properly researched and prepared, I would therefore request an additional extension of time within which to serve and file the Brief.

WHEREFORE, Respondent prays that the Court extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty days from the date such relief is granted; hold the matter in abeyance pending a ruling on Respondent's motion; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Deputy Attorney General

By: 

Mark R. Farthing
S.C. Bar Number 76901

I have reviewed and approved this extension request.

By: 

Donald J. Zelenka
Deputy Attorney General

December 13, 2024

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PROOF OF SERVICE

I, Caroline Collins, certify I have served the within Motion for the Fourth Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by sending an electronic copy via email to the addresses listed in AIS for the following individuals:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201

I further certify all parties required by Rule to be served have been served.
This 13th day of December, 2024.



CAROLINE COLLINS
Administrative Support Manager
Office of the Attorney General