

RECEIVED

Mar 05 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Sumter County
The Honorable R. Kirk Griffin, Circuit Court Judge

THE STATE,

Respondent,

v.

DIONTRAE TRAVON EPPS,

Appellant.

Appellate Case No. 2023-001586

**MOTION FOR FIFTH EXTENSION OF TIME TO FILE INITIAL BRIEF OF
RESPONDENT AND DESIGNATION OF MATTER BASED
ON EXTRAORDINARY CIRCUMSTANCES**

On February 5, 2025, this Court allowed Respondent an extension of time up to an including March 5, 2025 in which to file its initial brief. The Court provided that no further extensions would be granted, and counsel organized a schedule¹ with the good-faith intention to

¹ Counsel addressed and cleared many other responsibilities in an effort to have time to re-review the transcript in one sitting and attempt to complete the brief at that time. This includes: having prepared for and presented oral argument in a non-capital PCR appeal in this Court (*Jason Larson, February 4, 2025*); prepared and filed a status update in a capital federal habeas action (*Bobby Wayne Stone, February 14, 2025*); prepared and filed a response in opposition to motion to set aside the judgment in a non-capital federal habeas action (*Terrell McCoy, February 18, 2025*); prepared for and participated in a hearing on the State's proposed order for competency evaluation in a competency to be executed action (*John Richard Wood, February 20, 2025*); prepared and attending new trial motion hearing in Greenville (*Charles Wakefield, February 25, 2025*); aided in preparation of a response opposing unnecessary reconstruction of a portion of the record in a another capital case in post-conviction relief (*Gary Terry*); and prepared and filed a final brief in another murder direct appeal in this Court (*Alonza Marable, March 3, 2025*). The interim time, however, was largely taken up by drafting responses to filings made in advance of the Sigmon execution.

complete the brief within the time requested. However, the undersigned is counsel for the State in the recent execution cases. As noted in the prior request for extension, counsel was heavily involved in last-minute filings for the Bowman execution carried out on January 31, 2025. Counsel also represents the State for final litigation challenges to the conviction and sentence in the upcoming Sigmon execution scheduled for this Friday, March 7, 2025. The State litigation just concluded, in large measure, yesterday, (Appellate Case No. 2025-000187 and 000309, Order, March 4, 2025, denying petition for writ of habeas corpus, denying motion to stay execution, denying motion for reconsider, and denying motion to seal the Marion Bowman autopsy report). Counsel, while working on the brief in this appeal this evening, has been advised that a federal filing is expected shortly. Counsel emphasizes two things: first, the execution litigation by necessity requires immediate attention and takes singular concentration for the most part to complete documents for filing in a condensed timeframe, and second, the direct appeal case here has an 861 page trial transcript alone and Appellant presents issues requiring detailed fact summaries. The start and stop of review of this case has slowed counsel's progress, but counsel is extremely confident of completion within one week which would allow counsel to concentrate on filings regarding the upcoming execution without excessively delaying the briefing schedule any further.

Counsel does not take making this motion lightly and regrets the necessity of making this motion after the Court has expressly set out an intent for no further delay in briefing. Counsel apologizes and respectfully, and humbly, requests the Court consider the extraordinary circumstances set out, and allow a final extension of one-week, to allow Respondent to serve and file its brief of respondent and designation of matter on or before Wednesday, March 12, 2025.

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

s/Melody J. Brown

By: _____

MELODY J. BROWN

S.C. Bar No: 14244

ATTORNEYS FOR RESPONDENT

RECEIVED

Mar 05 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Sumter County
The Honorable R. Kirk Griffin, Circuit Court Judge

THE STATE,

Respondent,

v.

DIONTRAE TRAVON EPPS,

Appellant.

Appellate Case No. 2023-001586

PROOF OF SERVICE

The undersigned certifies a copy of the forgoing extension request has been forwarded to Appellant's counsel, Dayne C. Phillips, Esquire, via email today, March 5, 2025 to dayne@pricebenowitz.com.

s/Melody J. Brown

From: [Melody Brown](#)
To: [Dayne Phillips](#)
Cc: [Angela Brown](#)
Subject: State v. Diontrae Travon Epps, Appellate Case No. 2023-001586
Attachments: [image001.png](#)
[Emergency Fifth. Epps.pdf](#)

Dear Dayne:

Please find attached a copy of Respondent's fifth extension request for a brief one-week final extension. Thank you.

Kind regards,
Melody

MELODY J. BROWN, Senior Assistant Deputy Attorney General

Office of the South Carolina Attorney General

Capital and Collateral Litigation Section | Office 803-734-6305 | mbrown@scag.gov

P.O. Box 11549 | Columbia, SC 29211

scag.gov

emailsigseal



This email, along with any attachments, is considered confidential and may be legally privileged. If you have received it in error please notify the sender immediately by reply email and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. This email, and attachments, are subject to FOIA requests. Thank you for your cooperation.