

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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OCT 09 2013

SC Court of Appeals

Appeal from Spartanburg County
J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES IRBY,

APPELLANT

Appellate Case No. 2012-213028

PETITION FOR EXTENSION TO FILE
INITIAL BRIEF OF APPELLANT
AND DESIGNATION OF MATTER

The undersigned counsel respectfully requests a **final thirty day extension, until November 8, 2013**, in which to file the initial brief of appellant and designation of matter in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following extraordinary circumstances:

1. The initial brief of appellant and designation of matter in this case are due to be served and filed today.

2. Counsel is working on and plans to file the petition for writ of certiorari and accompanying appendix in the death penalty case of Marion Bowman v. State, a **ten issue death penalty** case in the Supreme Court **with an appendix in excess of 10,000 page appendix** with **ten probable issues** co-counsel David Alexander and Michael Anzelmo on October 18, 2013. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of Lewis

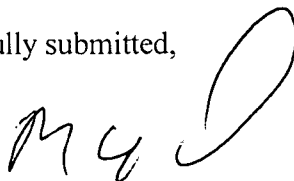
Addis, Jr. v. State in the Supreme Court on October 4, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Isaiah Marcus Brown in this Court on October 3, 2013. Additionally, on October 3, 2013, Counsel filed the initial reply brief of appellant in the case of State v. Anthony Nation with co-counsel Charles Grose in the Supreme Court. Counsel had an oral argument in the case of State v. George L. Chavis in the Supreme Court on October 2, 2013. Counsel filed the petition for writ of certiorari and accompanying appendix in the case of George Porterfield v. State in the Supreme Court on September 27, 2013. Counsel also presented at the Public Defender Convention that was held from September 23-25, 2013. Counsel filed the petitions for writ of certiorari and accompanying appendices in the cases of State v. Jeffrey Michaelson (in the COA) and Rayshawn Pearson v. State in the Supreme Court on September 18, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Michael Wright in this Court, as well as the petition for rehearing in the case of State v. James Bethel in the Supreme Court on September 13, 2013. Counsel filed the petitions for rehearing in the cases of State v. Anthony Wade and State v. Alton Shelley in the Supreme Court on September 12, 2013. Additionally, Counsel filed the petition for writ of certiorari and accompanying appendix in the **death penalty** case of State v. Brad Keith Sigmon in the United States Supreme Court on September 12, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. John L. Hogan in this Court on September 4, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Victor Weldon in this Court on August 28, 2013. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Charles M. Harris in this Court on August 14, 2013. Counsel filed both the initial brief of appellant and designation of matter, and the initial brief of respondent and designation of matter, in the cross-appeal case of State v. Anthony Blakney in this Court on August 7, 2013.

3. Counsel also has extensive administrative duties as the Chief Appellate Defender, including death penalty cases. My intention after Marion Bowman's petition for writ of certiorari is filed on October 18, 2013, and with the "pool cases" CLE concluded, is in the next month and a half to become current on my caseload after falling behind due to two serious surgeries. Counsel will work on the older extended cases first while becoming current. Counsel recognizes this Court's interest in moving its caseload and does not make this request for purposes of delay.

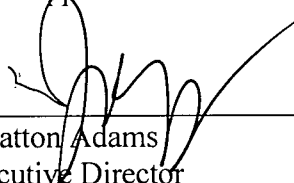
4. As indicated by her consent below, counsel for the state graciously consents to or does not oppose this request.

WHEREFORE, the undersigned counsel would respectfully request a **final thirty day extension, until November 8, 2013**. Counsel respectfully requests that the time limits for filing the initial brief of appellant and designation of matter be held in abeyance pending a ruling on this motion.

Respectfully submitted,



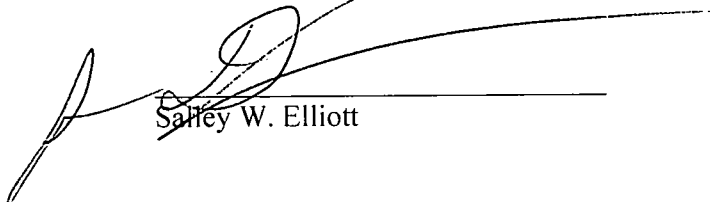
Robert M. Dudek
Chief Appellate Defender



T. Patton Adams
Executive Director
J. Hugh Ryan, III
General Counsel

October 9, 2013

I DO NOT OPPOSE:



Saffey W. Elliott