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Jun 27 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

MICHAEL SCOTT VALDARIO,

APPELLANT

APPELLATE CASE NO. 2024-001170

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MOTION FOR AN EXTENSION OF TIME  
IN WHICH TO FILE THE INITIAL BRIEF OF APPELLANT  
AND DESIGNATION OF MATTER OUT OF TIME

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Counsel for appellant respectfully requests a thirty (30) day extension, in which to serve and file the Initial Brief of Appellant and Designation of Matter in this case out of time. This motion is made pursuant to the Order of the South Carolina Supreme Court dated March 18, 2009. This is a third request for an extension. In support of this request, counsel shows:

1. The initial brief of appellant and designation of matter were due to be filed with the Court on June 13, 2025. On the date in question both counsel and her legal assistant were unexpectedly out of the office for personal reasons, thus the extension was inadvertently overlooked and not timely filed. This Court sent an Overdue Letter to counsel on June 27, 2025, alerting counsel of the error. Counsel acted immediately to prepare and filed this motion. The Court has granted counsel two previous extensions.

2. Counsel for Michael Valdario respectfully submits that extraordinary circumstances exist which warrant the granting of an additional extension of time. Given the number of extensions previously granted and the order in which counsel attempts to manage her caseload, counsel believes that no further extension requests will be required.

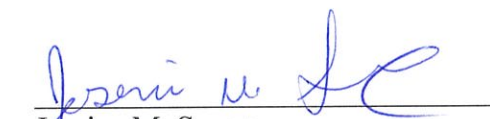
3. Counsel filed the initial reply brief of appellant in the case of The State v. Rico Funderburk with the Court of Appeals on January 26, 2025. Counsel filed the Petition for Rehearing in the case of State v. Terry Tyler with the Court of Appeals on June 26, 2025. Counsel filed the Petition for Rehearing in the case of State v. Ariel Robinson with the Court of Appeals on June 12, 2025. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Jeffery Wise with the Court of Appeals on June 11, 2025. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Michael L. Faile with the Court of Appeals on April 23, 2025. Counsel filed the Anders Brief of Appellant and Record on Appeal in the case of The State v. David C. Mosley with the Court of Appeals on April 23, 2025. Counsel filed the Petition for Writ of Certiorari to the Court of Appeals in the case of Holly Jo Thompson v. The State with the Supreme Court on April 7, 2024. Counsel had an oral argument in the case of Mitchell Rivers v. State in the Supreme Court on April 2, 2025. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Calvin Ford with the Court of Appeals on March 20, 2025. Counsel filed the Johnson Petition for Writ of Certiorari and Appendix in the case of Bryant McKnight v. The State with the Supreme Court on March 7, 2025.

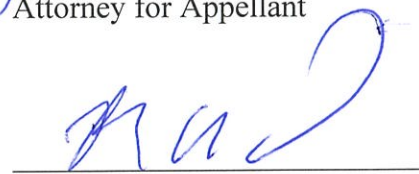
4. Counsel makes this request in good faith and not for purpose of delay. Counsel intends to continue to work on the cases with more than three extensions first so that her caseload will hopefully become more manageable in the near future, and less extensions will need to be requested.

5. Opposing counsel, the Attorney General's Office, has graciously consented to this out of time extension request by way of the thirty-day general consent granted by Deputy Attorney General Donald J. Zelenka for all Appellate Defense extensions through June 30, 2025. That emailed general consent was dated May 30, 2025. Counsel has further informed Mark R. Farthing, Esquire, of this request in advance by email and he graciously has no objection to this motion out of time.

WHEREFORE, the undersigned counsel would respectfully request a third extension in which to file the initial brief of appellant and designation of matter in this case out of time based upon the above exigent circumstances.

Respectfully submitted,

  
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Jessica M. Saxon  
Appellate Defender  
Attorney for Appellant

  
\_\_\_\_\_  
Robert M. Dudek  
Chief Appellate Defender

This 27th day of June, 2025.

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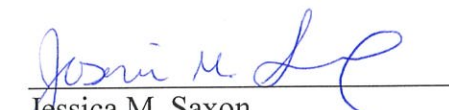
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CERTIFICATE OF SERVICE

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Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion for Extension in the above-referenced case has been served upon Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 27th day of June, 2025.

  
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Jessica M. Saxon  
Appellate Defender

ATTORNEY FOR APPELLANT

## Leverett, Scott

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**From:** Leverett, Scott  
**Sent:** Friday, June 27, 2025 4:09 PM  
**To:** Mark Farthing  
**Cc:** Caroline Collins; Saxon, Jessica  
**Subject:** 2024-001170 - State v. Michael S. Valdario - Extension 3 - Out of Time  
**Attachments:** 2024-001170 - State v. Michael S. Valdario - Extension 3 - Out of Time.pdf

Dear Mr. Farthing,

Attached please find a third Extension out of time in the above referenced case that is being filed today with the Court of Appeals.

-Scott Leverett  
Admin. Asst. for Jessica Saxon  
Appellate Defense