

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
The Honorable Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2012-208640

THE STATE,

Respondent,

v.

ANTONIO MILLER,

Appellant.

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NOV 20 2013

SC Court of Appeals

MOTION TO ENLARGE TIME FOR
FILING INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER

The Respondent, above-named, by and through the undersigned attorneys, would respectfully move this Court, for a 30-day extension of time within which to file its Initial Brief of Respondent. The Initial Brief of Respondent is due to be filed today, November 20, 2013. The undersigned attorneys for the above Respondent move that the time for filing of the initial brief be extended to December 20, 2013. This motion is made because Respondent has completed *almost all of the initial brief*; however, the Respondent has not been able to respond within the allotted time for the following reasons:

1. The attorneys for the Respondent have had and are scheduled to have a number of State and Federal matters to attend to;

A) State v. Evins (Capital PCR) Proposed Order filed in lieu of objections to Proposed

Order of Applicant granting new sentencing proceeding based on ineffective assistance of counsel;

B) Stephen Stanko v. State (Stanko II) Response to Motion to Stay Execution in S.C. Supreme Court *filed October 20, 2013*;

C) Eddie Harvey v. Warden (Federal Habeas Return)(Trafficking in Cocaine greater than 28 grams, 2nd Offense, and multiple other charges) *Return filed October 24, 2013*;

D) Sylvester Singletary v. Warden (Federal Habeas Corpus) **Response to Motion to Expand Record filed in U.S. District Court on November 11, 2013**;

E) Ronald Blanding v. Warden (Murder)(Federal Habeas Return) Amended Return addressing procedurally barred claims (18 grounds) at direction of U.S. District Judge, *filed Monday, October 21, 2013*;

F) Herbert English v. Warden (Federal Habeas Return) Amended Return *filed, October 23, 2013* addressing two (2) grounds in addition or attachment to federal habeas application;

G) David Burress v. Warden (Federal Habeas Return) **Preparation for and trial of Evidentiary Hearing in U.S. District Court on October 22, 2013** in Anderson before U.S. District Court Judge Timothy Caine;

H) Bobby Gibson v. Warden (Federal Habeas Return)(Trafficking in Cocaine greater than 100 grams) *in process*;

I) Eric Tessner v. Warden (Federal Habeas Return) *in process, close to completion*;

J) Nathaniel Johnson v. Warden (Federal Habeas Return) *in process, to be filed today, November 20, 2013, in U.S. District Court (Approximately 40 pages)*;

K) James Abercrombie v. Warden (Federal Habeas Return) *in process, close to completion*;

- L) State v. Mathew Fullbright (Initial Brief of Respondent) *in process*;
- M) Demetrius Smalls v. Warden (Federal Habeas Return) *in process, close to completion*;
- N) Dewayne McKenzie v. Warden (Federal Habeas Return) *in process, close to completion*;
- O) Curtis Bryant v. Warden (Federal Habeas Return) *in process, close to completion*;
- P) Edmund Goins v. Warden (Federal Habeas Return) *assisting in preparing Joint Appendix for the 4th Circuit Court of Appeals in Federal Habeas Appeal (LWOP)(in process)*;
- Q) Jerry Buck Inman v. State (Capital PCR) **Discovery Depositions on October 28, and 29, 2013 in Central, Pickens and Greenville, S.C. (Completed)**;
- R) Mikal Mahdi v. State (Capital PCR) Preparation of Amended Order Denying Post-Conviction Relief after the PCR Court granted Respondent's Rule 59 Motion on one (1) issue [deficient performance], *in process*:
and other matters.

2. Respondent's attorney was required to be engaged in computer training for parts of three (3) working days last week [November 12th, 13th, and 14th, 2013], as was the entire Attorney General's Office staff (the Attorney General's Office is converting to a new document management system);

3. Respondent is consulting with the Circuit Solicitor who prosecuted this case in an attempt to locate and recover a court document that is mentioned in the transcript and has relevance to an issue raised in the Brief of Respondent and is referenced in Respondent's Initial Brief and to be included in the Record on Appeal if located. Respondent is also attempting to locate this document through the Magistrate's Court who would have possession of the original of the same.

4. Respondent's attorney attended the funeral of a co-worker's father on Monday, November

18, 2013. Respondent's attorney was on sick leave yesterday, Tuesday, November 19, 2013.

5. Respondent has spoken with opposing counsel Robert Dudek, and he stated he does not object to the requested extension. This is Respondent's fifth (5th) extension request. Respondent attempted to complete the initial brief by November 20, 2013 but was unable to do so for the reasons set forth above. **No further extensions will be requested.**

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

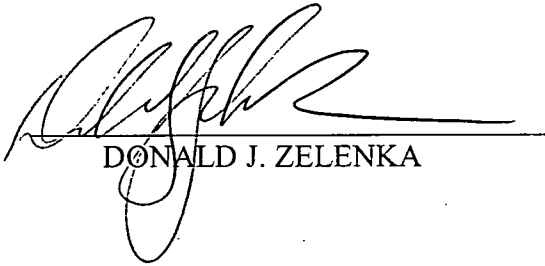
J. ANTHONY MABRY
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-6305

ATTORNEYS FOR RESPONDENT

By: _____


ANTHONY MABRY

We agree that extraordinary circumstances have been shown.

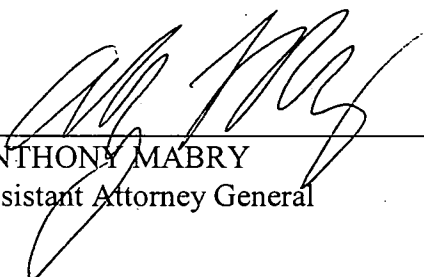

DONALD J. ZELENKA

John W. McIntosh
JOHN W. MCINTOSH

November 20, 2013

CERTIFICATE OF SERVICE

I, **Anthony Mabry**, hereby certify that I have served the Motion to Enlarge Time for Filing Initial Brief of Respondent and Designation of Matter in the foregoing action by depositing copy in the InterAgency Mail to RobertM. Dudek, Chief Appellate Defender, Division of Appellate Defense, 1330 Lady Street, Ste. 401, Columbia, SC 29201 this 20th day of November, 2013.



ANTHONY MABRY
Assistant Attorney General



ALAN WILSON
ATTORNEY GENERAL

November 20, 2013

Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: The State v. Antonio Miller
Appellate Case No. 2012-208640

Dear Ms. Kitchings:

Enclosed please find a Motion to Enlarge Time for Filing Initial Brief of Respondent in the above-referenced case for filing. By copy of this letter, I am serving opposing counsel with same.

Thank you for your consideration.

Sincerely,

Lonetta B. Brawley
Legal Assistant to Anthony Maby
Assistant Attorney General

/lbb
Enclosure

cc: Robert M. Dudek, Esquire

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