

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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DEC 27 2013
SC Court of Appeals

Appeal from Barnwell County
Honorable Doyet A. Early, III, Circuit Court Judge
Appellate Case Tracking No. 2013-000748

The State,

Respondent,

vs.

Eric VanCleave,

Appellant.

**MOTION OUT OF TIME FOR THIRD EXTENSION
WITHIN WHICH TO SERVE AND FILE
INITIAL BRIEF OF RESPONDENT**

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

The Initial Brief of Respondent was due to be served and filed December 23, 2013. Due to the undersigned being out of the office, the extension was not timely requested. The undersigned respectfully asks the Court to accept this Motion out of time and consider the request for a third extension.

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 Respondent moves for a third extension in the above referenced appeal. Due to work required in other cases pending before this Court and the

South Carolina Supreme Court, I am unable to complete this brief on time. The undersigned has completed several initial briefs, Returns to Petition for Writ of Certiorari, and Petitions for Writ of Certiorari in the last several weeks. In addition, counsel participated in oral argument at both this Court and the South Carolina Court of Appeals. Finally, counsel was out sick for nearly a week with a viral infection and has not been able to complete any work during that time.

III.

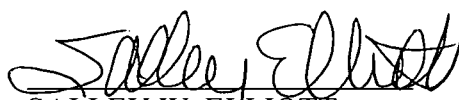
This extension request is not intended for purposes of delay, but rather to ensure the Brief is properly researched and prepared. I would therefore request a third extension of time within which to serve and file the Initial Brief of Respondent.

WHEREFORE, Respondent prays that the Court accept this Motion out of time, hold this matter in abeyance until ruling on this motion, and extend the deadline for the service and filing of the Initial Brief of Respondent in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.


Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General



SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General



WILLIAM M. BLITCH, JR.

Assistant Attorney General

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ATTORNEYS FOR RESPONDENT

December 27, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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

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PROOF OF SERVICE

I, Angela Bennett, certify that I have served the Motion Out of Time For Third Extension Of Time Within Which To Serve And File Initial Brief of Respondent on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to:

Robert T. Williams, Sr. Esquire
Benjamin A. Stitely, Esquire
Williams, Hendrix, Steigner & Brink, P.A.
PO Box 849
Lexington, SC 29071

I further certify that all parties required by Rule to be served have been served.

This 27th day of December, 2013.



ANGELA BENNETT
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

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SC Court of Appeals

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VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: State v. Eric VanCleave
Appellate Case Tracking No. 2013-000748

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of a Motion Out of Time For Third Extension Of Time Within Which To Serve And File Initial Brief of Respondent along with proof of service for filing in the above-referenced appeal.

Sincerely,

William M. Blich, Jr.
Assistant Attorney General

Enclosures

cc: Robert T. Williams, Sr., Esquire
Victim Services