

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Honorable DeAndrea G. Benjamin, Circuit Court Judge
Appellate Case No. 2012-212628

RECEIVED

FEB 04 2014

THE STATE,

SC Court of Appeals

Respondent,

vs.

MELVIN P. STUKES,

Appellant.

**MOTION TO FILE EXTENSION REQUEST OUT OF TIME
AND
MOTION FOR SECOND EXTENSION OF TIME WITHIN WHICH
TO SERVE AND FILE THE INITIAL BRIEF OF RESPONDENT
AND DESIGNATION OF MATTER**

Respondent (“the State”), through its undersigned counsel, would respectfully show unto the Court as follows:

I.

The Initial Brief of Respondent and Designation of Matter was due to be served and filed on January 2, 2014. However, due to a calendaring error, counsel for the State mistakenly believed the brief was due to be served and filed on February 2, 2014.

II.

As a result of the calendaring error, the State respectfully asks this Court to relax the requirements of Rule 242(f), SCACR, and permit the State to file a motion for a second extension of time within which to serve and file the Initial Brief of Respondent and Designation

of Matter out of time. See Rule 263(b), SCACR (“The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rule 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.”). The undersigned counsel apologizes for any inconvenience this request has caused to the Court and to the appellant and does not believe this request will result in any prejudice to the petitioner should it be granted.

III.

Additionally, 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 State moves for a second extension in the above-referenced criminal appeal. Due to work required in other cases pending before this Court and the South Carolina Court of Appeals, I am unable to complete this Brief on time.

IV.


This extension request is not intended for purposes of delay, but rather to ensure that the Brief is properly researched and prepared. I would therefore ask this Court to accept the State’s motion for an extension of time out of time and to grant an extension of time within which to serve and file the Initial Brief of Respondent and Designation of Matter.

WHEREFORE, Respondent prays that the Court relax the requirements of Rule 242(f), SCACR; accept the filing of the Motion for Third Extension of Time Within Which to Serve and File the Initial Brief of Respondent and Designation of Matter out of time; extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter 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

MARY S. WILLIAMS
Assistant Attorney General

By: 
for MARY S. WILLIAMS

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

February 4, 2014

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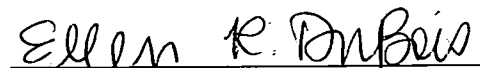
Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Motion to File Extension Request Out of Time and Motion for Second Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 4th day of February, 2014.



ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

February 4, 2014


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

RE: State v. Melvin P. Stukes – Appellate Case No. 2012-212628

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the Motion to File Extension Request Out of Time and Motion for Second Extension of Time Within Which to Serve and File Initial Brief of Respondent and Designation of Matter for filing in the above-referenced appeal.

Sincerely,

for 

Mary S. Williams
Assistant Attorney General
Bar Number 76192

MSW/erd
Enclosures

cc: Kathrine H. Hudgins, Esquire
Victim Services

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SC Court of Appeals