

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Dorchester County
Diane Schafer Goodstein, Circuit Court Judge

The State of South Carolina,

v.

Don-Survi Chisolm,

Respondent, FEB 03 2014

Appellant. **SC Court of Appeals**

Appellate Case No. 2011-200186

**MOTION FOR THIRD EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

Respondent, the State, moves this Court for an additional thirty (30) day extension of time in which to file the Initial Brief of Respondent and Designation of Matter. This is Respondent's third request for an extension of time in which to file the brief. In support of the request, undersigned counsel would respectfully show the Court:

1. Undersigned counsel for Respondent has been scheduled for a number of state and federal matters in the last thirty (30) days, that include, but are not limited to, the following: prepared and filed an amendment to the return in a capital federal habeas action (*Brad Sigmon*); prepared and filed a return and memorandum of law in support of motion for summary judgment, and a motion to strike improperly filed materials, in another federal habeas action (*Charles Dominick*); prepared for and attended a waiver hearing in Manning, SC, in another capital case in post-conviction relief (*Quincy Allen*); prepared for and attended two (2) separate hearings in

Greenville, SC, on the Warden's assertion of default, and on the Warden's motion for waiver or in the alternative to reconsider appointment of counsel in the same capital case in federal habeas in which she filed the amendment to the return (*Brad Sigmon*); and completed and filed a post-hearing brief (ninety-eight (98) pages addressing multiple issues) in another capital case in post-conviction relief which was due to be filed on January 28th, but was extended to Friday, January 31, 2014, for closures of government offices due to inclement weather on the 28th and 29th. Counsel has also completed for filing today a response to motion to amend in another federal habeas action (*Bynum Rayfield*), and is currently completing, also for filing today, a response in opposition to a motion for stay in another federal habeas action (*James Baxley*). Counsel is also scheduled to present oral argument in this Court on Thursday, February 6, 2014, in a non-capital murder direct appeal (*State v. David Johnson*).

2. Due to her heavy case load, particularly the above listed capital cases which require substantial time in preparation of responsive documents, and the closure of government offices (and the Court) for inclement weather (which in turn delayed completion of other work also currently due), undersigned counsel has not been able to complete a proper responsive brief in the instant action.

3. This is the third request for an extension of time in which to file the initial brief of respondent and designation of matter.

THEREFORE, undersigned counsel for Respondent respectfully requests an additional extension of thirty (30) days to complete the initial brief and designation of matter.

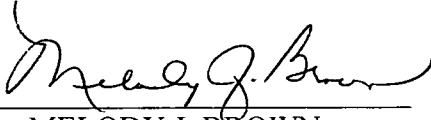
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

MELODY J. BROWN
Senior Assistant Attorney General


BY: 
MELODY J. BROWN

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

February 3, 2014.
Columbia, South Carolina.

ATTORNEYS FOR RESPONDENT

I have reviewed and approved this request.


DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Dorchester County
Diane Schafer Goodstein, Circuit Court Judge

The State of South Carolina,

Respondent,

v.

Don-Survi Chisolm,

Appellant.

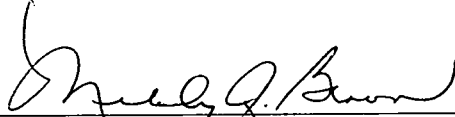
Appellate Case No. 2011-200186

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served Respondent's Motion for a Second Extension of Time on counsel for Appellant, by depositing one copy of same in the United States mail, postage prepaid, to counsel for appellant, addressed as follows:

Lara M. Caudy, Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

This 3rd day of February, 2014.



MELODY J. BROWN

Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-6305

ATTORNEY FOR RESPONDENT



ALAN WILSON
ATTORNEY GENERAL

February 3, 2014

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

RECEIVED

FEB 03 2014

SC Court of Appeals

Re: The State v. Don Survi-Chisolm
Appeal from Dorchester County
Appellate Case No. 2011-200186

Dear Ms. Kitchings:

Enclosed please find the original and one (1) copy of the Respondent's Motion for Third Extension of Time to file Initial Brief of Respondent and Designation of Matter, dated, together with a Proof of Service in the above-referenced matter.

Thank you for your assistance in this matter. Please call this office if you need any additional information.

Sincerely,

Melody J. Brown
Senior Assistant Attorney General

MJB/mv

cc: Robert M. Dudek, Chief Appellate Defender
Lara M. Caudy, Appellate Defender