

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Certiorari to York County
Honorable J. Derham Cole, Circuit Court Judge
Appellate Case No. 2013-002169

STATE OF SOUTH CAROLINA,

APPELLANT,

vs.

PATRICK GILLIS McALLISTER,

RESPONDENT.

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MAR 10 2014

SC Court of Appeals

**MOTION TO FILE EXTENSION REQUEST OUT OF TIME
AND
MOTION FOR FIRST 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 were due to be served and filed on March 3, 2014. However, due to a calendaring error, counsel for the State mistakenly failed to file a request for first extension on that date.

II.

As a result of the calendaring error, the State respectfully asks this Court to relax the requirements of Rule 243, SCACR, and permit the State to file a motion for a first 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 first extension in the above-referenced matter. Due to work required in other cases pending before this Court, the South Carolina Supreme Court, and the Circuit Courts, 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 Brief of Respondent and Designation of Matter.

WHEREFORE, Respondent prays that the Court relax the requirements of Rule 243, SCACR; accept the filing of the Motion for First 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

JULIE KATE KEENEY
Assistant Attorney General

By: 
JULIE KATE KEENEY

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

March 10, 2014

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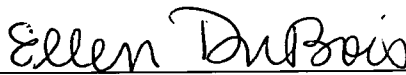
RESPONDENT.

PROOF OF SERVICE

I, Ellen DuBois, certify that I have served the within Motion to File Extension Request Out of Time and Motion for First 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:

Kevin M. Hope, Esquire
Post Office Box 36425
Rock Hill, SC 29732

I further certify that all parties required by Rule to be served have been served.
This 10th day of March, 2014.



ELLEN DUBOIS
Legal Assistant

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



ALAN WILSON
ATTORNEY GENERAL

March 10, 2014

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

RE: State v. Patrick Gillis McAllister
Appellate Case No. 2013-002169

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 First 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,

Julie Kate Keeney
Assistant Attorney General
Bar Number 100145

JKK/erd
Enclosures

cc: Kevin M. Hope, Esquire
Victim Services

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