

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
J. Michael Baxley, Circuit Court Judge

Appellate Case No. 2012-213655

RECEIVED

APR 21 2014

THE STATE,

RESPONDENT

SC Court of Appeals

v.

THOMAS STEWART,

APPELLANT

RESPONDENT'S MOTION TO EXTEND FILING OF
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER

6
21

The Respondent, above-named, hereby makes a motion to this Court to extend the time for filing the Initial Brief of Respondent and Designation of Matter from April 21, 2014 to May 21, 2014. This second request is due to other business personal events in state and federal court. Below-signed counsel has received consent this date to this request. Opposing counsel Jarrett Coco has advised me by email that he consents to this request which is attached.

I.

Since the initial request, counsel has been preparing a Return for filing in the federal habeas action of Jabbar Straws v. Warden, preparation of a Brief in Opposition for the U.S. Supreme Court in Billy W. Cope v. State due to be filed May 6, 2014, travel to Bishopville, SC on March 21 for a status conference in the death penalty PCR of Quincy Allen v. State before

g
dr

Judge Cothran, filed a Final Brief of Respondent and Supplemental Record filed on March 25, 2014 in State v. Daniel D'Angelo Jackson, filed a Supplemental Return in the federal habeas matter in Therl Taylor v. Warden on March 27, 2014, and filed a Supplemental Return in Joshua Jeter v. Warden in federal court on March 27, 2014 and on March 27, 2014 filed a motion to alter and amend in Fredrick Evins v. State – a death penalty PCR action before Judge Gary Hill, made a response to a motion to reconstruct in State v. Tavoris Hurst on March 29, 2014; prepared and argued before the South Carolina Supreme Court on April 1, 2014 in State v. Jaquin Brewer; prepared and argued before the South Carolina Court of Appeals on April 10, 2014 in State v. Richey Boyd and State v. Lamar Williams; traveled to Spartanburg on April 11, 2014 for witness preparation for death penalty PCR hearing scheduled for April 14-16, 21-25, 2014 before Judge Cole in Andres Torres v. State.


II.

In the next thirty days, below-signed counsel has the following matters scheduled: a Brief in Opposition in the United States Supreme Court in Billy Wayne Cope v. South Carolina on May 7, travel to Spartanburg from April 12-14, 2014 for the PCR hearing in Andres Torres v. State before Judge Derham Cole, federal habeas return on May 1, 2014 in Jabbar Straws v. State (extended twice, an initial brief of respondent due on April 23, 2014 in State v. Kevin Letmon (extended once), an initial brief of respondent in State v. Cleopus Edwards (3 extensions) due April 23, 2014, a federal habeas corpus return due in Bryan Ladner v. Warden on April 28, 2014 and a Return to Petition for Writ of Certiorari in Herman Hughes v. State in the Court of Appeals projected to be due on April 28, 2018; a federal habeas corpus return in Kevin Mellette v. Warden on April 28; an oral argument in the South Carolina Court of Appeals on May 5, 2014 in State v. Reginald Canty; a certiorari petition in the death penalty PCR

appeal in Kenneth Simmons v. State due in the South Carolina Supreme Court on May 5, 2014; a federal habeas return due on May 5 in Mecca Evans v. Warden on May 5, 2014; a federal habeas corpus return in Tiffany Elmore v. State on May 5, 2014; the brief in opposition to the U.S. Supreme Court in Billy W. Cope v. S.C. on May 6, 2014; an oral argument in the South Carolina Court of Appeals in State v. Victor White on May 6, 2014; a federal habeas corpus return due in Robert Whittaker v. State on May 16, 2014; and a federal habeas return due in Bobby Rice v. Warden on May 27, 2014. .

III.

Respondent's below-signed counsel establishes the following priority for pleadings:

- 
1. Brief in Opposition in the United States Supreme Court in Billy Wayne Cope v. South Carolina on May 7.
 2. Return to Certiorari – Orlando Smith v. State (DNA Access Appeal) (4th extension) – projected due April 28.
 3. State v. Roderquiz Cook – Initial Brief of Respondent projected due May 14 (4th extension).
 4. Initial Brief of Respondent in State v. Cleopus Edwards (3 extensions) due April 23, 2014.
 5. Return to Petition for Writ of Certiorari in Herman Hughes v. State in the Court of Appeals projected to be due on April 28, 2018.
 6. Certiorari Petition - Kenneth Simmons v. State – due May 5, 2014
 7. Federal Habeas Return on May 1, 2014 in Jabbar Straws v. State (extended twice).

II.

Counsel has contacted opposing counsel Jarrett O. Coco. He had advised tha he consents

to this request. This email is attached.

III.

Wherefore Respondents respectfully request an extension of a period of thirty days up to and including May 14, 2014 to complete this Initial Brief of Respondent.

Respectfully submitted,

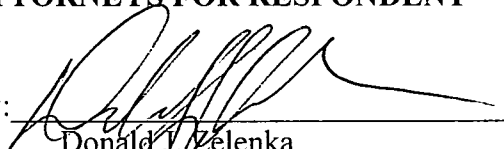
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

ATTORNEYS FOR RESPONDENT

By:



Donald J. Zelenka
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
803-734-6305

April 21, 2014

Don Zelenka

From: Jarrett Coco <jarrett.coco@nelsonmullins.com>
Sent: Monday, April 21, 2014 9:25 AM
To: Don Zelenka
Cc: Lonnie Brawley
Subject: RE: State v. Thomas Stewart - IBOR 2nd Extension Request

I consent to the extension.
Thanks

Jarrett Coco | NELSON MULLINS RILEY & SCARBOROUGH LLP |
(e) jarrett.coco@nelsonmullins.com | (p) 803.255.5536 | (f) 803.256.7500

From: Don Zelenka [<mailto:DZelenka@scag.gov>]
Sent: Monday, April 21, 2014 9:17 AM
To: Jarrett Coco
Cc: Lonnie Brawley
Subject: State v. Thomas Stewart - IBOR 2nd Extension Request

Dear Mr. Coco –

Attached is a proposed extension request in the Stewart direct appeal. Please advise me of your position by email and we will include it for the Court. I am in court in Spartanburg this week in week 2 of a death penalty PCR matter before Judge Cole. Thank you for your consideration in this matter.

Sincerely,

Donald J. Zelenka
Senior Assistant Deputy Attorney General
South Carolina Attorney General's Office
P.O. Box 11549
Columbia, S.C. 29211
803-734-3601
dzelenka@scag.gov

Confidentiality Notice

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure.

If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone (800-237-2000) or reply to this e-mail and delete all copies of this message.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chesterfield County
J. Michael Baxley, Circuit Court Judge

Appellate Case No. 2012-213655

THE STATE,

RESPONDENT,

v.

THOMAS STEWART,

APPELLANT

CERTIFICATE OF SERVICE

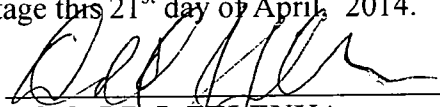
I, Donald J. Zelenka, hereby certify that I have served Respondents **Motion to Enlarge**

Time for Filing Initial Brief of Respondent on:

Jarrett O. Coco, Esquire
Nelson Mullins Riley and Scarborough LLP
1320 Mains Street – 17th Floor
PO Box 11070
Columbia, SC 29211-1070

Robert M. Dudek, Esquire
Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201

by depositing a copy in the Mail with sufficient postage this 21st day of April, 2014.



DONALD J. ZELENKA

Senior Assistant Deputy Attorney General



ALAN WILSON
ATTORNEY GENERAL

April 21, 2014

RECEIVED

APR 21 2014

SC Court of Appeals

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

Re: The State v. Thomas Stewart
Appellate Case No. 2012-213655

Dear Ms. Kitchings:

Enclosed please find a Motion to Enlarge Time for Filing Initial Brief of Respondent and Designation of Matter in the above-captioned matter for filing in your office. By copy of this letter, I am serving opposing counsel with same.

Sincerely,

Lonetta B. Brawley
Legal Assistant to Donald J. Zelenka
Senior Assistant Deputy Attorney General

/lbb
Enclosure

cc: Jarrett Coco, Esquire
Robert M. Dudek, Esquire