

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Calhoun County
The Honorable Diane Schafer Goodstein, Circuit Court Judge
Appellate Case No. 2013-001496

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MAY 12 2014
SC Court of Appeals

THE STATE,

Respondent,

vs.

DAVID JAMAR BENJAMIN,

Appellant.

**PETITION FOR SECOND EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND
DESIGNATION OF MATTER**

The undersigned counsel would respectfully request a thirty (30) day extension in which to file the Initial Brief of Respondent in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due today, May 12, 2014, upon this Court's grant of Respondent's first request for an extension filed on April 22, 2014.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since April 11, 2014. Specifically,

1. Counsel is currently preparing for oral argument on behalf of the State which is scheduled for tomorrow, May 13, 2014 before the South Carolina Court of Appeals in the Richland County murder appeal matters of The State vs. Henry Gray, Appellate Case No. 2012-209426, and The State vs. Robin Reese, Appellate Case No. 2012-209826;

2. Counsel was out of the office on sick leave Friday, April 18, 2014;
3. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Jerry Marvin Galbreath, #131740 vs. Leroy Cartledge, C/A No. 1:14-110-RMG-SVH. Said Return was 102 pages in length;
4. Counsel also prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Stacy Evans, #152040 vs. Warden Cartledge, C/A No. 0:13-2637-TMC-PJG; and
5. Counsel is preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Jerrod Smith, #332154 vs. Warden, Lieber Correctional Institution, C/A No. 4:13-3090-JFA-TER which is currently due on May 23, 2014. Due to a misspelling of the Petitioner's first name, all of the files were not initially ordered. The 2011 post-conviction relief appeal file has since been pulled and is in the possession of the respondent.

However, due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the return to the habeas petition in this proceeding. This request is made in good faith, and not for the purpose of delay.

WHEREFORE, premises considered, counsel hereby respectfully requests a thirty (30) day extension of time to serve and file the return in this matter.

Respectfully Submitted,


ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General
No. 4425

WILLIAM EDGAR SALTER, III
Senior Assistant Attorney General
No. 3710

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By: 
WILLIAM EDGAR SALTER, III
ATTORNEYS FOR RESPONDENT

May 12, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Calhoun County
The Honorable Diane Schafer Goodstein, Circuit Court Judge
Appellate Case No. 2013-001496

THE STATE,

Respondent,

vs.

DAVID JAMAR BENJAMIN,

Appellant.

PROOF OF SERVICE

I, William E. Salter, III, of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a second extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorneys of record, James L. Goldsmith, Jr., Esq., P.O. Box 92, Zirconia, North Carolina 28790, and to Robert L. Sirianni, Jr., Brownstone Law Firm, P.A., 201 North New York Avenue, Suite #200, P.O. Box 2047, Winter Park, Florida 32789-3159.

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

This 12th day of May, 2014.



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



ALAN WILSON
ATTORNEY GENERAL

May 12, 2014

RECEIVED

MAY 12 2014

SC Court of Appeals

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

Re: *The State vs. David J. Benjamin*
Appeal from Calhoun County
Appellate Case No.: 2013-001496

Dear Ms. Kitchings:

I hereby request an extension of thirty (30) days in which to file the Initial Brief of Respondent and Designation of Matter in the above-referenced case. The Initial Brief is currently due to be served and filed today, May 12, 2014. However, because of my involvement in other matters in state and federal court, I have been unable to timely complete the Initial Brief.

Therefore, I am enclosing an original and six (6) copies of a Motion for Second Extension to File Initial Brief of Respondent and Designation of Matter. I have obtained the consent of James L. Goldsmith, Jr., Esq., and was advised today by the law firm of Robert L. Sirianni, Jr. that they do not take a position either way.

Sincerely,

William E. Salter, III,
Senior Assistant Attorney General

WES:dmd
Enclosures

cc: James L. Goldsmith, Jr., Esq. (w/two copies of encls.)
Robert L. Sirianni, Jr., Esq. (w/two copies of encls.)