

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.

---

**PETITION FOR THIRD 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, June 11, 2014, upon this Court's grant of Respondent's second request for an extension filed on May 13, 2014.

The undersigned attorney for the Respondent has had a number of state and federal matters to attend since May 12, 2014. Specifically,

1. Counsel presented oral argument on behalf of the State 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 on May 13, 2014;

2. Counsel prepared the Respondent's Response to Order filed on April 30, 2014 [Doc. #26] and Opposing Motion to Subpoena in the matter of William A. Avinger, II, #319774 vs. Warden, MacDougal Correctional Institution, C/A No. 9:13-2736-JFA-BM on May 15, 2014;

3. Counsel prepared the Brief of Petitioner by Respondent-Petitioner in the capital Post-Conviction Relief appeal matter of Jonathan Kyle Binney vs. The State, which is before the South Carolina Supreme Court on May 15, 2014;

4. Counsel prepared 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 on May 23, 2014;

5. Counsel prepared the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Brian Douglas Laws, #222070 vs. Warden, Lee Correctional Institution, C/A No. 0:13-3131-GRA-PJG on May 30, 2014;

6. Counsel prepared the Respondent's Response Opposing Motion for Hearing in the matter of Detrick Freeman, #328569 vs. Warden McCall, C/A No. 1:12-01105-CMC, also on May 30, 2014;

7. Counsel prepared the Respondent's Response in Opposition to Motion for Relief [Doc. #194] in the matter of Robert Holland Koon, #227826 vs. Colie Rushton, Warden of McCormick Correctional Institution; and Alan Wilson, Attorney General of the State of South Carolina, C/A No.: 8:05-2523-RBH on June 2, 2014;

8. Counsel is currently preparing the Returns and Memoranda of Law in Support of Motions for Summary Judgment in the matters of Alvin Keith Brown, Jr., #302968 vs. Warden of Kirkland Correctional Institution, C/A No. 5:13-2680-RMG-KDW; and in William Antonio

Gleaton, #326282 vs. Warden Dennis Bush, C/A No. 4:14-00890-TMC-TER which is currently due today, June 11, 2014; and

9. Counsel is also currently preparing for oral argument on behalf of the State before the South Carolina Supreme Court in the Greenville County murder appeal matter of The State vs. Darian K. Robinson, Appellate Case No. 2010-172947 which is scheduled for tomorrow, June 12, 2014.

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,

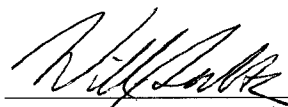
ALAN WILSON  
Attorney General


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

Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305

By:   
WILLIAM EDGAR SALTER, III

By:   
DONALD J. ZELENKA  
Senior Assistant Deputy Attorney General

I accept the finding of good cause.

ATTORNEYS FOR RESPONDENT

June 11, 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.

---

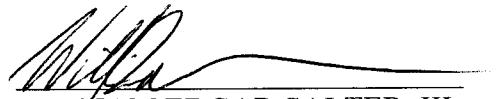
**PROOF OF SERVICE**

---

I, William E. Salter, III, of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a third 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 11<sup>th</sup> day of June, 2014.

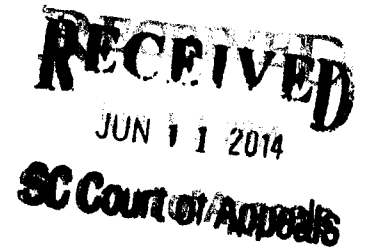
  
WILLIAM EDGAR SALTER, III  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305



ALAN WILSON  
ATTORNEY GENERAL

June 11, 2014

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



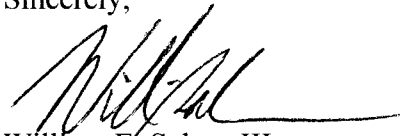
Re: *The State vs. David J. Benjamin*  
Appeal from Calhoun County  
Appellate Case No.: 2013-001496

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, June 11, 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 Third Extension to File Initial Brief of Respondent and Designation of Matter. I have contacted James L. Goldsmith, Jr., Esq. to obtain consent, 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.)