

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

RECEIVED
JUN 20 2014
SC Court of Appeals



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

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 June 20 to July 20, 2014. This fourth request is due to other business personal events in state and federal court and review and consideration of the recent opinion by the Supreme Court in *State v. Damien Inman*, OP. No. 27402 (S.Ct.S.C June 18, 2014) which may impact on the response to issue one. 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.

I.

Since the prior request, counsel filed a federal habeas return, memorandum of law and motion to dismiss in James Bowers v. Warden on May 19, 2014; filed an initial brief of

respondent in State v. Cleophus Edwards in the Court of Appeals on May 23, 2014, filed a Return to Petition for Writ of Certiorari in Herman Hughes v. State in the Court of Appeals filed on May 28, 2014; a court ordered response in the federal habeas action of Arthur Middleton v. Warden on May 30; a state death penalty PCR argument on June 2, 2014 in Greenville in Fredrick Evins v. State before Judge Hill; a federal habeas return filed in Tiffany Elmore v. Warden on June 4, 2014; federal habeas corpus return filed in Mecca Evans v. Warden on June 4, 2014; an Initial Brief of Respondent filed on June 6, 2014 in State v. Cleophus Edwards before the Court of Appeals; an oral argument in State v. Daniel Jackson before the South Carolina Court of Appeals on June 10, 2014; an oral argument before the South Carolina Supreme Court on June 11, 2014 in State v. Shawn Miller; and an initial brief of Respondent in State v. Roderquiz Cook filed on June 13, 2014; a federal habeas return due today in Robert Whittaker v. Warden filed on June 18, 2014; and a federal habeas brief and return in Kenny Sowell v. Warden on June 19, 2014.

Respondent has also been working on an initial brief of Respondent in State v. Antonio Gordon due on June 20, 2014 and an initial brief of Respondent due on June 20 in State v. Thomas Stewart due on June 20 which below-signed counsel is seeking to be extended this date. Counsel also has due an initial brief of respondent in State v. Kevin Letmon (extended three times) which counsel intends to file on its due date on Monday June 23.

In the next month, Respondent has due a federal habeas return due in Bobby Rice v. Warden on June 26, 2014; a federal habeas corpus return in Terry Smalley v. Warden on June 26, 2014; a motion hearing in a death penalty PCR matter of Fredrick Evins v. State before Judge Hill on June 27, 2014; a federal habeas corpus return due in Bryan Ladner v. Warden on June 27, 2014 (extended twice); a federal habeas return due in Kevin Mellette v. Warden on

June 27 (extended three times); a response to an order in Lentigus Floyd v. Warden's motion to stay on June 30; a federal habeas return due in Steven Collins v. State on July 2; a Brief of Respondent on certiorari in the death penalty appeal in John K. Hughey v. State on July 16, 2014; a death penalty PCR appeal Return to Certiorari in Charles Williams v. State on July 18, 2014 and a federal habeas return in Jonathan Carter v. State on July 21, 2014

Counsel has established the following priorities:

1. State v. Kevin Letmon (extended three times) which counsel intends to file on its due date on Monday June 23.
2. federal habeas return due in Kevin Mellette v. Warden on June 27 (extended three times);
3. Death Penalty PCR appellate Brief of Respondent - John K. Hughey v. State due on July 16, 2014
4. Death penalty PCR appeal Return to Certiorari in Charles Williams v. State on July 18, 2014.
5. Initial Brief of Respondent – State v. Thomas Stewart – projected July 20, 2014.

II.

Counsel has contacted opposing counsel Jarrett Coco who advises that he has no objection to this request.

III.

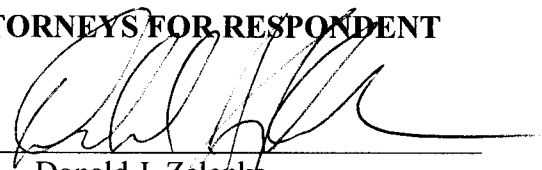
Wherefore Respondents respectfully request an extension of a period of thirty days up to and including July 20, 2014 to complete this Initial Brief of Respondent.

Respectfully submitted,

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

ATTORNEYS FOR RESPONDENT

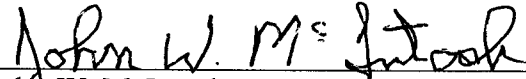
By: _____



Donald J. Zelenka
Office of the Attorney General
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Columbia, South Carolina 29211
SC Bar # 5758
803-734-6305

June 20, 2014

I concur that extraordinary circumstances has been shown request.



John W. McIntosh
Chief Deputy Attorney General

5
BY

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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 20th day of June, 2014.



DONALD J. ZELENKA
Senior Assistant Deputy Attorney General



ALAN WILSON
ATTORNEY GENERAL

June 20, 2014

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