

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

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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 July 21 to August 20, 2014. This fifth and final 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) now pending on rehearing and State v. Dondre Scott pending on a petition for certiorari which may impact on the response to issue one. Below-signed counsel has not received the position of opposing counsel Jarrett Coco at the time of this filing.

I.

Since the prior request, counsel filed a brief and habeas corpus response in Kenny Sowell

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v. Warden on June 19; initial brief of respondent in State v. Keith Letmon on June 23; assisted in preparation for oral argument in State v. Richard Niles on June 25, preparation and hearing in death penalty matter in Greenville on June 27, 2014 in Fredrick Evins v. State before Judge Hill; review of record and response in the U.S. Supreme Court in Willie Campbell v. Warden on June 27, 2014; filed an extensive federal habeas corpus return and memorandum of law in Kevin Mellette v. Warden on June 27, 2014; return and brief in federal habeas corpus matter of Steven Collins v. Warden on July 2, 2014; preparation and filing of petition for rehearing in State v. Damien Inman in the South Carolina Supreme Court on July 3, 2014; supplemental return in Tiffany Elmore v. Warden on July 7, 2014; resolved matters of custody concerning a remittitur issued in State v. Shawn Miller; out of state travel and attendance at the National Attorneys General Solicitor General and Appellate Chief meeting in Washington, DC from July 9-11, 2014; filed response to stay of execution in the federal district court in Bayan Aleksey v. Warden death penalty habeas action on July 14, 2014; began preparation on death penalty PCR appeal State Brief of Respondent in John K. Hughey v. State initially due on July 16, 2014.

Counsel for Respondent has also been working on drafts of the initial brief of Respondent in State v. Antonio Gordon due on July 21, 2014 and an initial brief of Respondent due on July 21 in State v. Thomas Stewart which below-signed counsel is seeking to be extended this date. In addition, below-signed counsel is working on John Hughey v. State Brief of Respondent now due on August 15, 2014.

In the next month, Respondent has due a death penalty certiorari return in Charles C. Williams v. State in the S.C. Supreme Court on July 22, 2014; deposition preparation and deposition in death penalty PCR case Andres Torres v. State on July 23, 2014; a federal habeas return due in Bobby Rice v. Warden (2nd extension) on July 28, 2014; a federal habeas corpus

return in Terry Smalley v. Warden (1 extension) on July 28, 2014; a federal habeas corpus return due in Bryan Ladner v. Warden on July 27, 2014 (no further extensions allowed); a response to an order in the federal habeas corpus action of Lentigus Floyd v. Warden's motion to stay on July 30 and a return in the same matter; a Brief of Respondent in the Court of Appeals in State v. Orlando Smith due on July 31, 2014; court ordered amended return in federal habeas matter of Tracey Carter v. Warden on August 11, 2014; federal habeas response in Jason Riley v. Warden (1 extension) on August 13, 2014, Brief of Respondent on certiorari in the death penalty appeal in John K. Hughey v. State on August 15, 2014; a death penalty PCR appeal Return to Certiorari in Charles Williams v. State (now due on July 22, 2014) projected to be due on August 21, 2014 and a federal habeas return in Jonathan Carter v. State on August 20, 2014.

Counsel has established the following highest priorities:

1. Death Penalty PCR appellate Brief of Respondent - John K. Hughey v. State due on August 15, 2014
2. Death penalty PCR appeal Return to Certiorari in Charles Williams v. State projected due on August 21, 2014.
3. Initial Brief of Respondent – State v. Thomas Stewart – projected August 20, 2014.
4. Brian Ladner v. Warden – habeas return - court –ordered no further extensions.
5. State v. Antonio Gordon – initial Brief of Respondent projected due on August 20, 2014

II.

III.

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

Respectfully submitted,

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

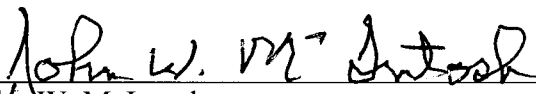
ATTORNEYS FOR RESPONDENT

By: 

Donald J. Zelenka
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
SC Bar # 5758
803-734-6305

July 21, 2014

I concur that extraordinary circumstances has been shown request.


John W. McIntosh
Chief Deputy Attorney General

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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

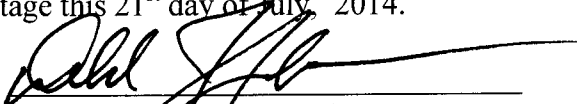
Robert M. Dudek, Esquire
Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201

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



DONALD J. ZELENKA
Senior Assistant Deputy Attorney General



ALAN WILSON
ATTORNEY GENERAL

July 21, 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 O. Coco, Esquire
Robert M. Dudek, Esquire

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