

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
John C. Hayes, III, Circuit Court Judge

RECEIVED

JUL 28 2014

SC Court of Appeals

THE STATE,

Respondent,

v.

MARCUS DWAIN WRIGHT,

Appellant.

Appellate Case No. 2013-001406

**MOTION TO ENLARGE TIME FOR
FILING INITIAL BRIEF OF RESPONDENT AND
DESIGNATION OF MATTER**

The Respondent, above-named, by and through the undersigned attorneys, would respectfully move this Court for a 30-day extension of time within which to file its Initial Brief of Respondent *based on extraordinary circumstances*. The Initial Brief of Respondent is due to be filed July 28, 2014. The undersigned attorneys for the above Respondent move that the time for return be extended to August 28, 2014. This motion is made because Respondent has completed a portion of the Initial Brief of Respondent but has not been able to complete the Initial Brief within the allotted time for the following reasons:

1. In the last sixty (60) days, the S.C. Supreme Court has issued two (2) separate orders regarding (a) briefs after a grant of certiorari to the Court of Appeals and (2) Petitions for Certiorari and Returns to the same to the S.C. Court of Appeals. The S.C.

Supreme Court will no longer grant extensions regarding either briefs as described above or Petitions for Cert./Returns to Cert. as described above. This has required Respondent's attorney to stop work on briefs in progress [and other matters] and complete the above referenced matters for the S.C. Supreme Court.

2. Counsel has been involved in a number of other state and federal matters, that include:

(A) State v. Heller (Murder) Brief of Respondent after grant of certiorari to the S.C. Court of Appeals, **filed last Wednesday, July 23, 2014. The S.C. Supreme Court will no longer allow extensions on briefs after a grant of certiorari to the S.C. Court of Appeals;**

(B) State v. Antonio Scott (Murder) Return to Petition for Certiorari to the S.C. Court of Appeals, **being filed this week on Thursday, July 31, 2014, because the S.C. Supreme Court will no longer allow extensions on Returns to Petitions for Certiorari to the S.C. Court of Appeals;**¹

(C) State v. Derringer Young (Murder) Return to Petition for Writ of Certiorari to the S.C. Court of Appeals, **filed Friday, July 25, 2014, because the S.C. Supreme Court will no longer allow extensions on Returns to Petitions for Certiorari to the S.C. Court of Appeals;**

¹ Respondent obtained an emergency 10 day extension because the Supreme Court entered its latest order regarding no extensions, while Respondent was on scheduled family vacation. Respondent's attorney received notice of the Supreme Court's Order while on vacation and filed the emergency extension request on return to the office on Monday, July 21, 2014 in State v. Antonio Scott. The Supreme Court granted the emergency extension and required the Return to Certiorari to be filed this week on or before Thursday, July 31, 2014.

- (D) State v. Bobby Gibson (Federal Habeas Corpus Case) Preparation for hearing before U.S. District Judge Joseph Anderson **scheduled on Wednesday, July 30, 2014 at 2:00 p.m.**²
- (E) Ashante Wright v. Warden (Murder)(Federal Habeas Return) to be filed **on or before August 6, 2014. By Order of the U.S. Magistrate, no further extensions will be allowed by the Court with regard to this case. This Return is in process and is almost complete.**
- (F) State v. Kareem Harry (Murder) Initial Brief of Respondent, **filed in this Court on Monday, July 21, 2014.**
- (G) Stanko v. State (Capital PCR) Return to Amended PCR Application and Motion to Dismiss, **filed in the Circuit Court of Common Pleas on July 10, 2014;**
- (H) Melvin Nelson v. Warden (Federal Habeas Return) **filed on July 8, 2014 in U.S. District Court;**
- (I) Eric Tessner v. Warden (Federal Habeas Return) (Murder X 2) **filed on July 8, 2014 in U.S. District Court;**
- (J) Leroy Staton v. Warden (Federal Habeas Corpus) Joint Status Report required by U.S. Magistrate, **filed on July 3, 2014;**
- (K) Robert J. Miller v. Warden (Federal Habeas Corpus) Federal Habeas Return and Motion to Dismiss & Response to Motion for Bail, **filed on June 26, 2014 in U.S. District Court;**
- (L) Freddie Owens v. State (Capital PCR Appeal) Return to Petition for Certiorari, **filed June 23, 2014 in the S.C. Supreme Court (approximately 120 pages);**

² Respondent received notice of this hearing upon return to the office from family vacation on July 21, 2014. The hearing is on the Report and Recommendation of U.S. Magistrate Bristow Marchant. Opposing counsel is Brandt Rucker.

and, other matters.

3. Appellant is raising thirteen (13) issues on appeal from his conviction for murder, trafficking in cocaine, PWID crack cocaine, and possession of a weapon during a violent crime;
4. Respondent has consulted with opposing counsel, J. Falkner Wilkes, and given the extraordinary circumstances, he does not object to the requested extension. This is a 6th extension request.
5. A paralegal has been assisting Respondent's attorney with the Record in this case, and has assisted Respondent's attorney in obtaining necessary search warrants and records from the Solicitor's Office who prosecuted this case, so that the Initial Brief of Respondent may be completed. Respondent is actively working on this brief.
6. Respondent's attorney is assigned to the Capital Litigation Section of the Attorney General's Office, which handles all murder appeals, both death penalty and non-capital cases, all capital PCR cases, at the circuit court and appellate level, and all Federal Habeas Corpus cases regardless of the crime.

Wherefore, given extraordinary circumstances have been shown, Respondent respectfully requests an extension of a period of time of thirty (30) days up to and including **August 27, 2014.**

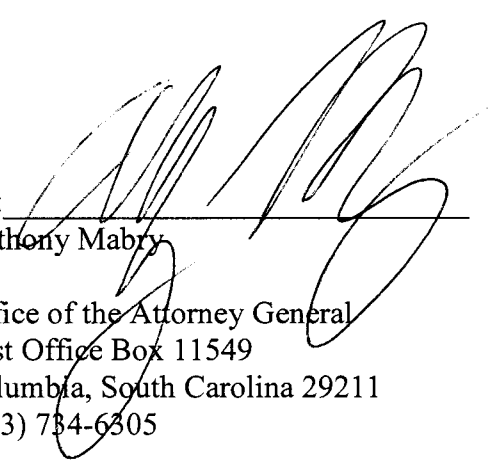
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN MCINTOSH
Chief Deputy Attorney General


DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

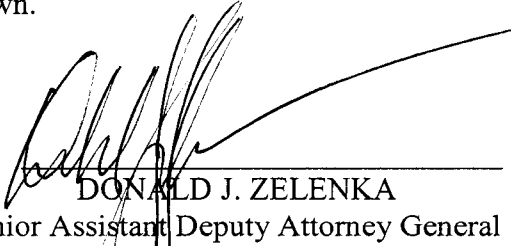
ANTHONY MABRY
Assistant Attorney General
ATTORNEYS FOR RESPONDENT

By: 
Anthony Mabry

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

We agree that extraordinary circumstances have been shown.

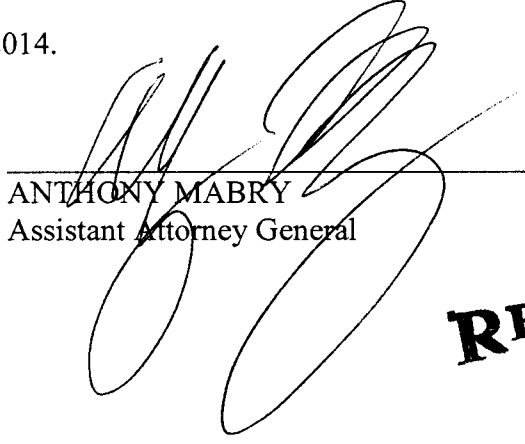

JOHN W. MCINTOSH
Chief Deputy Attorney General


DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

July 28, 2014

CERTIFICATE OF SERVICE

I **Anthony Mabry**, hereby certify that I have served the Motion to Enlarge Time for Filing Initial Brief of Respondent and Designation of Matter in the foregoing action by depositing copy in the United States Mail to J. Falkner Wilkes, Esq., 114 Whitsett Street, Greenville, SC 29601 this 28th day of July, 2014.



ANTHONY MABRY
Assistant Attorney General

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SC Court of Appeals



ALAN WILSON
ATTORNEY GENERAL

July 28, 2014

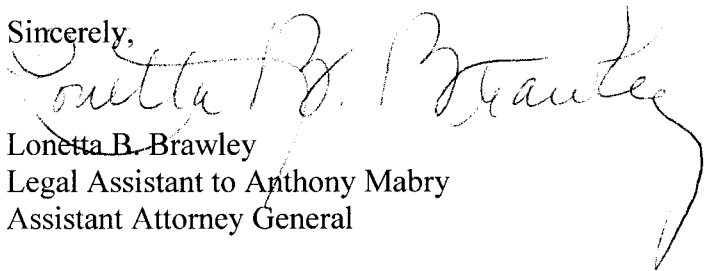
Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: State v. Marcus Dwain Wright
Appellate Case No. 2013-001406

Dear Ms. Kitchings:

Enclosed please find a Motion to Enlarge Time for Filing Initial Brief of Respondent in the above-referenced case for filing. By copy of this letter, I am serving opposing counsel with same.

Sincerely,



Lonetta B. Brawley
Legal Assistant to Anthony Mabry
Assistant Attorney General

/lbb
Enclosure

cc: J. Falkner Wilkes, Esquire

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SC Court of Appeals