

# The South Carolina Court of Appeals

Matthew S. McAlhaney, Respondent,

v.

Richard K. McElveen a/k/a Richard K. McElveen, Sr.,  
Individually and d/b/a Battery Creek Marina, The Great  
Pumpkin, LLC, Linda McElveen, Richard K. McElveen,  
Jr., and Billy Joe Byrd, Defendants,

Of Whom Richard K. McElveen a/k/a Richard K.  
McElveen, Sr., is Appellant.

Appellate Case No. 2010-167969

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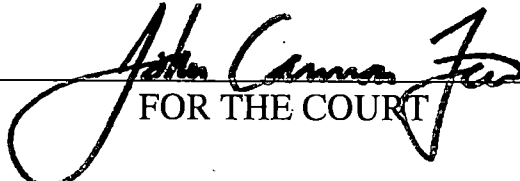
## ORDER

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We have considered the respondent's eighth request for an extension of time in which to file his initial brief. Respondent's counsel presents a compelling explanation for his failure to timely file his client's brief, and the court is sensitive to the circumstances and medical difficulties counsel has faced. However, as compelling as these circumstances are, these are the same circumstances on the basis of which the court has already granted several extensions. On June 12, 2014, the court granted the respondent's sixth request for an extension of time, stating, "No further extensions will be granted absent extraordinary circumstances." The respondent filed his seventh motion for an extension of time on July 7, conceding his counsel had been "able to work free of pain" since late June. In response to respondent's seventh request for an extension, the appellant wrote a letter explaining its concern over the numerous extensions, including the fact that this case was tried in 2010. On July 17, despite the appellant's letter, we granted the respondent's seventh extension request and set a new filing deadline for the respondent's initial brief of August 6, 2014. We indicated our understanding of the difficult circumstances counsel faced, but clearly stated the case would proceed— with or without a respondent's brief—on August 6. One day after the deadline

passed—August 7—the respondent filed an eighth request for an extension of time. In the request, the respondent does not list any new circumstances except the general statement "the acuity of his [counsel's] faculties remains diminished" and counsel has been "transposing numbers and confusing dates." The respondent also states, "he has now identified a capable person willing to help." However, he does not explain who the person is, whether the person is a lawyer, how he or she may "help," or when the court may expect to receive a respondent's brief.

The court was clear in its July 17 order. In accordance with that order, this appeal will proceed without a respondent's brief. The record on appeal shall be filed on or before September 5, 2014.

  
FOR THE COURT

Columbia, South Carolina

cc:

Blake Alexander Hewitt, Esquire  
John S. Nichols, Esquire  
Robert V. Mathison, Jr., Esquire

**FILED**  
8-15-14