

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
J. Michael Baxley, Circuit Court Judge

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SEP 02 2014

SC Court of Appeals

Indictment Nos. 2011-GS-32-0242
2011-GS-32-0243
2011-GS-32-0244

EX PARTE:

South Carolina Department of Disabilities
and Special Needs, Appellant.

IN RE:

State of South Carolina, Respondent,

v.

Rocky A. Linkhorn, Respondent.

**MOTION FOR ADDITIONAL TIME TO
FILE INITIAL REPLY BRIEF**

The Appellant South Carolina Department of Disabilities and Special Needs respectfully moves this Court for an extension of time until Friday, September 12,

2014, by which to file and serve its Initial Reply Brief and Designation of Matter to be Included in the Record on Appeal.

The Appellant's motion is based on the following grounds:

1. The Appellant's Initial Reply Brief is currently due to be filed and served on September 2, 2014.


2. The request for this extension is supported by good cause. The Appellant's counsel did not receive the briefs filed by the State and Rocky Linkhorn until August 25, 2014. This appeal involves complex issues of statutory construction and jurisdiction. Both Respondents filed lengthy briefs that will require additional time to review, analyze and prepare an appropriate reply. The undersigned counsel for the Appellant was out-of-state over the Labor Day holiday weekend for family obligations and was unable to complete as much work on the reply as he had anticipated. Furthermore, the undersigned counsel for the Appellant is currently without his paralegal who is out on maternity leave.

3. The Appellant submits that this constitutes good cause to allow one ten-day extension for the filing of the Initial Reply Brief. This Court has previously granted both Respondents an additional extension based upon similar good cause shown.

4. The undersigned has consulted with Elizabeth Fullwood and Parkin Hunter, who are counsel for the Respondents, and they have consented to the requested extension by email. (See attached email).

WHEREFORE, the Appellant South Carolina Department of Disabilities and Special Needs respectfully request that it be allowed until Friday, September 12, 2014, by which to file and serve its Initial Reply Brief and Designation of Matter to be Included in the Record on Appeal.

DAVIDSON & LINDEMANN, P.A.

BY: 

ANDREW F. LINDEMANN
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*Counsel for Appellant South Carolina
Department of Disabilities and Special Needs*

Columbia, South Carolina

September 2, 2014

Andrew Lindemann

From: Parkin Hunter <phunter@scag.gov>
Sent: Tuesday, September 02, 2014 1:43 PM
To: Andrew Lindemann; Fullwood, Elizabeth
Subject: RE: State v. Linkhorn.

Of course you have my consent.

Parkin

From: Andrew Lindemann [<mailto:alindemann@dml-law.com>]
Sent: Tuesday, September 02, 2014 1:29 PM
To: Fullwood, Elizabeth; Parkin Hunter
Subject: RE: State v. Linkhorn

Thanks Beth. That rule should really be changed. The deadline is ten days plus there are no extra days for mailing under the SCACR. So I had ten days from the 22nd even though I did receive your brief until the 26th thanks to the Post Office.

From: Fullwood, Elizabeth [<mailto:EFullwood@lex-co.com>]
Sent: Tuesday, September 02, 2014 1:28 PM
To: Andrew Lindemann; Parkin Hunter
Subject: RE: State v. Linkhorn

So soon? Seems I just filed mine yesterday. Of course an extension is fine.
Beth

From: Andrew Lindemann [<mailto:alindemann@dml-law.com>]
Sent: Tuesday, September 02, 2014 1:25 PM
To: Parkin Hunter; Fullwood, Elizabeth
Subject: State v. Linkhorn
Importance: High

Parkin and Beth:

My Initial Reply Brief for DDSN is due today. I have been out of town for family reasons since Friday, plus my paralegal is out because of bed rest for her pregnancy. I need to ask for a ten day extension. Will you both kindly consent?

I need to get the motion to the Court soon. Please let me hear from you on this as soon as you can.

Thanks. I appreciate it.

Andrew

CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Appellant, South Carolina Department of Disabilities and Special Needs, does hereby certify that service of the **Motion for Additional Time to File Initial Reply Brief** in the above-captioned matter was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 2nd day of September 2014:

Tana Vanderbilt, Esquire
General Counsel
South Carolina Department of
Disabilities and Special Needs
Post Office Box 4706
Columbia, South Carolina 29240

T. Parkin C. Hunter, Esquire
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South Carolina Attorney General's Office
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SC Court of Appeals

Monique M. Lee, Esquire
Office of General Counsel
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September 2, 2014

Of Counsel
Kenneth P. Woodington

Writer's Email: alindemann@dml-law.com

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Edgar Brown Building
1205 Pendleton Street
Columbia, South Carolina 29201

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SEP 02 2014

SC Court of Appeals

RE: Ex Parte: South Department of Disabilities and Special Needs
In Re: State of South Carolina v. Rocky A. Linkhorn
Appellate Case Number: 2013-002208
Indictment Numbers: 2011-GS-32-0242; 2011-GS-32-0243; 2011-GS-32-0244
Our File Number: 79.9313

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven copies of the **Motion for Additional Time to File Initial Reply Brief** in the above referenced matter. Please file the original and return a clocked-in copy to me by way of my courier. I have not enclosed the filing fee because the Appellant is a State agency and thus is exempt from paying the filing fee.

By copy of this letter, I am serving copies on all counsel of record.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.



Andrew F. Lindemann

AFL/jmb
Enclosures

The Honorable Jenny Abbott Kitchings
September 2, 2014
Page Two

cc: (w/ Enclosure)

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