

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Richland County
Robert E. Hood, Circuit Court Judge

The State of South Carolina,

Respondent,

v.

Marcus Bailey,

Appellant,

Appellate Case No.: 2013-001680.

**MOTION FOR THIRD EXTENSION OF TIME TO FILE
INITIAL BRIEF OF RESPONDENT AND DESIGNATION OF MATTER**

Respondent, the State, moves this Court for a final one-week extension of time – up to and including Monday, October 13, 2014 – in which to file the Initial Brief of Respondent and Designation of Matter. This is Respondent’s third request for an extension of time in which to file the brief. In support of the request, undersigned counsel would respectfully show the Court:

1. Respondent has completed substantial work on the brief and anticipates that the brief may be finished within the next five (5) business days. It will be promptly filed upon completion if completed earlier than the time requested herein. Respondent notes the instant appeal is from a murder conviction and has a transcript in excess of two thousand pages. Appellant raises six issues.

2. In addition to completing review of the transcript and the legal research necessary to prepare the brief in this case, undersigned counsel has been scheduled for a number of state and federal matters in the last thirty (30) days, including attending several capital case matters that had not been previously anticipated or scheduled prior to the last extension requests. Counsel’s work

over the past thirty (30) days includes the following: prepared and filed a response in opposition to motion to stay proceedings in a capital case in federal habeas (*Brad Sigmon*); prepared and filed a petition for reassignment of PCR judge and request for expedited proceedings in circuit court, and a subsequent reply, in the Supreme Court of South Carolina in regard to a successive capital PCR action in state circuit court in that same case (*Brad Sigmon*); prepared and filed a return and motion to dismiss in the state circuit court in the same capital case, and prepared and attended an appointment of counsel hearing in the same circuit court matter (*Brad Sigmon*); prepared for and argued a motions hearing in another capital post-conviction relief case currently pending in state circuit court, prepared correspondence with co-counsel to the Honorable Judge Cothran in regard to depositions prior to the scheduled November 17th hearing, and corresponded with opposing counsel in regards to the recent ruling affecting necessary depositions (*Quincy Allen*); prepared for and presented two (2) oral arguments in this Court in two non-capital murder direct appeal cases (*Alexander Hunsberger; Julio Hunsberger*); attended and presented argument at a motions hearing at the request of the Solicitor in Edgefield, South Carolina in another capital case and, prepared and filed a petition for writ of certiorari due to exceptional circumstances in the Supreme Court of South Carolina to reinstate the prior conviction in that same capital case (*Steven Barnes*); prepared and filed a response in opposition to motion to dismiss and for an evidentiary hearing in another habeas action (*John Dykeman*); prepared and filed a response in opposition to motion to reconsider order denying motion to compel in another capital post-conviction relief action pending in state circuit court (*William O. Dickerson*); and, completed and filed returns and memoranda of law, with scanned state court records, in five (5) federal habeas actions (*Kevin L. Grant, Freddie Jones, Antwan Zeigler, Reginald Barno, and Timothy Earl Green*).

3. Due to this particularly heavy case load, and especially the capital case matters that have required immediate and unscheduled attention, undersigned counsel has not been able to complete the initial brief in this appeal. However, as noted above, counsel has completed a substantial portion of the brief and requests only a brief extension of time.

4. Undersigned counsel for Respondent has consulted with counsel for appellant, Mr. Myers, who advised he does not consent to this request.

THEREFORE, undersigned counsel for Respondent respectfully requests an additional extension of one week to complete the Initial Brief of Respondent and Designation of Matter.

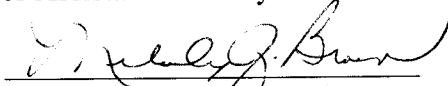
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

MELODY J. BROWN
Senior Assistant Attorney General

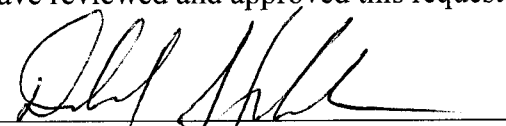
BY: 
MELODY J. BROWN
S.C. Bar No. 14244

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

October 6, 2014.
Columbia, South Carolina.

ATTORNEYS FOR RESPONDENT

I have reviewed and approved this request:


DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

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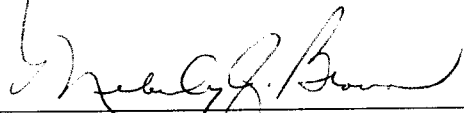
Appellate Case No.: 2013-001680.

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served Respondent's Motion for a Third Extension of Time on counsel for Appellant, by depositing one copy of same in the United States mail, postage prepaid, to counsel for appellant, addressed as follows:

Stanley L. Myers, Esq.
S. Jahue Moore, Esq.
M. Brooks Biediger, Esq.
Moore Taylor Law Firm, P.A.
1700 Sunset Boulevard
P.O. Box 5709
West Columbia, S.C. 29171

This 6th day of October, 2014.



MELODY J. BROWN
S.C. Bar No. 14244

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ATTORNEY FOR RESPONDENT



ALAN WILSON
ATTORNEY GENERAL

October 6, 2014

RECEIVED

OCT 06 2014

SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Marcus Bailey
Appeal from Richland County
Appellate Case No. 2013-001680

Dear Ms. Kitchings:

Enclosed please find the original and one (1) copy of Respondent's Motion for Third Extension of Time to file Initial Brief of Respondent and Designation of Matter, dated today, together with a Proof of Service in the above-referenced matter.

Thank you for your assistance in this matter. Please call this office if you need any additional information.

Sincerely,

Melody J. Brown
Senior Assistant Attorney General

MJB/mv

cc: Stanley Lamont Myers, Sr., Esquire
S. Jahue Moore, Esquire
M. Brooks Biediger, Esquire