

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Charleston County  
Stephanie P. McDonald, Circuit Court Judge

---

Appellate Case No. 2014-002129

---

**RECEIVED**

FEB 02 2015

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA,**

**Appellant,**

v.

**MARVIN BROWN,**

**Respondent.**

---

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

---

14  
DL

The Appellant State of South Carolina, above-named, hereby make a second motion to this Court to extend the time for filing the Initial Brief of Appellant and Designation of Matter from **February 2, 2015** for a period of thirty (30) days up to and including **March 4, 2015**.

This Initial Brief of Appellant concerns the pre-trial suppression of the dying declaration of the decedent as a result of a shooting and may address issues related the correctness of the assessment by the trial judge in concluding whether the standard of review of the judge in the suppression hearing, issues whether there was evidence of the victim's state of mind that he was of a belief that death was imminent when the declaration was made and the effect or relevance of medical evidence on the suppression decision when the victim continued to receive treatment subsequent to the statement . The State submits that the suppression of decedent's statement is

immediately appealable because it significantly impairs the prosecution of the case. State v. McKnight, 287 S.C. 167, 337 S.E.2d 208 (1985).

The State, through the Attorney General's Office makes this request due to other court responsibilities it had during the time period and resolution of responsibility in the state appeal with the Ninth Circuit Solicitor's office. Below-signed counsel has received transcripts and motions and attachments and believe that resolution of the Initial Brief of Appellant will be completed by March 4, 2015.

Below-signed counsel was primarily handling a death penalty PCR appeal in the completion of a 168 page certiorari return Charles C. Williams v. State completed January 30, 2015. In addition, counsel filed a number of filings in state and federal court including court ordered response in the federal habeas corpus action in James Bowers v. Warden (Jan. 5, 2015); a response to a bail request in State v. Jeremy McMillan in the South Carolina Supreme Court on January 5, 2015; return and memorandum of law in the federal habeas action in Joshua Monroe v. Warden on January 7, 2015; filed a Final Brief of Respondent in State v. Cleophus Edwards on January 8, 2015; filed a motion in State v. Jeremy McMillan; a Brief of Respondent with the Solicitor's office in the S.C. Supreme Court in State v. Manuel Marin; a federal habeas return and memorandum on January 14, 2015 in Fred Downer v. Warden; a federal habeas return and memorandum Tyrone Singletary v. Warden on January 14, 2015; an oral argument in the death penalty PCR appeal before the South Carolina Supreme Court in John Hughey v. State on January 15, 2015; a federal habeas corpus return and memorandum in William Owens v. Warden on January 16, 2015; a petition for writ of certiorari in the direct appeal in State v. Daniel D'Angelo Jackson on January 23, 2015 and the death penalty PCR certiorari return of 168 pages in Charles C. Williams v. State on January 30, 2015.

II.

Counsel discussed the matter with Respondent's counsel, Susan Hackett of this request who advised counsel that she had no objection to the request.

III.

Wherefore Appellant respectfully request an extension of a period of time of thirty (30) days up to and including March 4, 2015 to complete this Initial Brief of Appellant 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  
S.C. Bar No. 5758

BENJAMIN C. SIMPSON  
Assistant Solicitor  
Ninth Judicial Circuit Solicitor's Office  
Charleston, S.C.

**ATTORNEYS FOR APPELLANT**

By: 

Donald J. Zelenka

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

February 2, 2015

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

Appeal from Charleston County  
Stephanie P. McDonald, Circuit Court Judge

---

Appellate Case No. 2014-002129

---

**RECEIVED**

FEB 02 2015

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA,**

**Appellant,**

v.

**MARVIN BROWN,**

**Respondent.**

---

**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:

Susan Hackett, Esq.  
Appellate Defender  
SCCID/Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211

by depositing a copy in the Mail with sufficient postage this 2<sup>nd</sup> day of February, 2015.

  
**DONALD J. ZELENKA**  
Senior Assistant Deputy Attorney General



**RECEIVED**  
FEB 02 2015  
**SC Court of Appeals**

ALAN WILSON  
ATTORNEY GENERAL

February 2, 2015

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

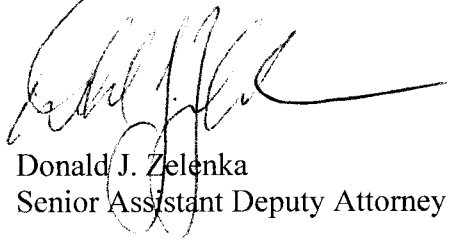
Re: The State v. Marvin Brown  
Appeal from Charleston County  
Appellate Case No. 2014-002129

Dear Ms. Kitchings:

Enclosed please find the original and one (1) copy of Appellant's Motion to Enlarge Time for filing Initial Brief of Appellant 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,



Donald J. Zelenka  
Senior Assistant Deputy Attorney General

DJZ/mv  
Enclosures

cc: Susan Hackett, Appellate Defender