

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM AIKEN COUNTY  
Court of General Sessions  
Doyet A. Early, III, Circuit Court Judge

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Appellate Case No: 2014-000344

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State of South Carolina .....Respondent,

versus

Frank Muns .....Appellant.

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**MEMORANDUM IN OPPOSITION TO  
RESPONDENT’S THIRD REQUEST FOR A THIRTY-DAY EXTENSION**

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Appellant, Mr. Frank Muns, has been in jail for over one year during this appeal and is eager to have his appeal move forward. Therefore, he had his Initial Brief filed and served *before* his own initial deadline, thereby triggering a 45-day window for Respondent’s Initial Brief.

Only on the actual deadline, January 20, 2015, did Respondent request a 30-day extension, citing a “heavy workload.” This Court granted the extension until February 19, 2015.

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On the new deadline of February 19, 2015, Respondent filed a second, identical request for a 30-day extension of time, again citing a “heavy workload.” This Court again extended the deadline, moving it back to March 23, 2015.

Appellant had not opposed either request, although his consent had not been sought in either instance. However, after receiving the order granting the second extension, the undersigned informed Respondent that, “[i]n the interest of our client, we must oppose any further extensions.”

On the new deadline of March 23, 2015, Respondent filed yet another Motion for Extension of Time requesting a 30-day extension, no longer asserting a heavy caseload but merely that counsel has “other cases.”

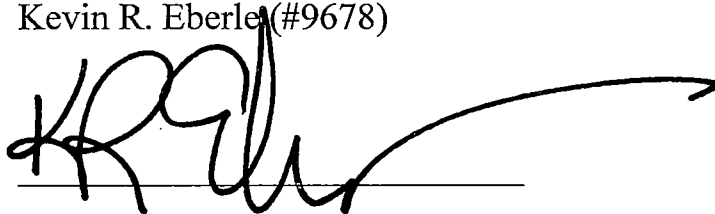
Appellant opposes Respondent’s Motion for Extension. Respondent will have received three 30-day extensions to file the Initial Brief of Respondent in addition to the already enlarged 45-day initial filing period. Although the South Carolina Supreme Court Order of March 18, 2009 envisions the possibility of repeated extensions, it also expressly requires counsel to minimize such requests. Here, the entire argument for the extension is that this appeal is not the only case opposing counsel is handling; there has been no suggestion that the workload will change in the foreseeable future if an extension is granted or that the workload is any heavier than normal.

Appellant can appreciate that denying an extension sought only on the last possible day would prevent a resolution of the case on the merits. Therefore, Appellant does not oppose a brief extension to complete the work on Respondent's Initial Brief, but would ask that the deadline be extended no more than five days.

If the request is granted, Respondent will have had more than 135 days to file its Initial Brief. Meanwhile, Mr. Muns is confined at the Kirkland Correctional Institution.

Respectfully submitted,

Kevin R. Eberle (#9678)

A handwritten signature in black ink, appearing to read 'K. Eberle', written over a horizontal line.

Nicholas Shalosky (#101359)

A handwritten signature in black ink, appearing to read 'N. Shalosky', written over a horizontal line.

414 King Street  
Charleston, South Carolina  
(843) 377-2412

Robert Dudek, Chief Appellate Defender  
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Attorneys for Appellant

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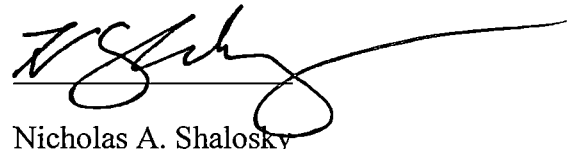
**PROOF OF SERVICE**

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I, Nicholas A. Shalosky, certify that I have served the Memorandum in Opposition to Respondent's Third Request for a Thirty-Day Extension by depositing a copy of the same in the United States mail, postage prepaid, addressed to the attorneys of record, J. Benjamin Aplin, South Carolina Attorney General's Office, Post Office Box 11549, Columbia, South Carolina 29211.

I further certify that all parties required by Rule to be served have been served.

This 26<sup>th</sup> day of March, 2015.



Nicholas A. Shalosky  
414 King Street  
Charleston, SC 29403

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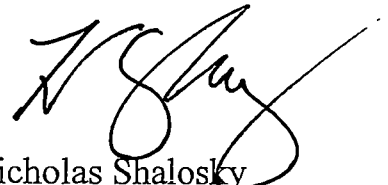
South Carolina Court of Appeals  
Clerk of Court  
1015 Sumter Street  
P.O. Box 11629  
Columbia, SC 29211

March 26, 2015

Clerk of Court:

Please find an enclosed original with six copies of Appellant's Memorandum in Opposition to Respondent's Third Request for a Thirty-Day Extension and one original of Proof of Service.

Respectfully,



Nicholas Shalosky  
Kevin R. Eberle  
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Charleston, SC 29403  
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Attorneys for Appellant

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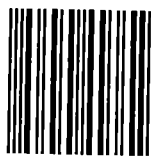


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