

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County
Honorable Clifton Newman, Circuit Court Judge
Appellate Case Tracking No. 2013-002524

RECEIVED
APR 28 2015
SC Court of Appeals

The State,

Respondent,

vs.

Alan Dale Smith,

Appellant.

**MOTION OUT OF TIME FOR EXTENSION
WITHIN WHICH TO SERVE AND FILE
INITIAL BRIEF OF RESPONDENT**

Respondent, through its undersigned counsel, would respectfully show unto this Court as follows:

I.

The Initial Brief of Respondent was due to be served and filed in March 2015. The undersigned failed to calendar the new due date for the service and filing of the Initial Brief of Respondent and Designation of Matter. The undersigned then had to be out of the office for medical reasons on numerous occasions and never verified the date the Brief and Designation were due. As a result, the undersigned failed to properly and timely request and extension of time for which to serve and file the Brief and Designation. The undersigned respectfully asks the Court to accept this Motion out of time and consider the request for a second extension.

II.

Pursuant to RE: Extension Requests in Criminal Direct Appeals and Post-Conviction Relief Certiorari Proceedings: Order of the South Carolina Supreme Court dated March 18, 2009, the Respondent moves for a second extension in the above referenced appeal. Due to work required in other cases pending before this Court and the South Carolina Supreme Court, I am unable to complete this brief on time. The undersigned has completed several initial briefs including briefs in State v. Berke, State v. Turner, State v. Wells, and State v. Walters, Returns to Petition for Writ of Certiorari, and Petitions for Writ of Certiorari in the last several weeks. In addition, counsel participated in multiple oral arguments at both this Court and the South Carolina Supreme Court. Finally, counsel was out of the office on sick leave for numerous days.

III.

This extension request is not intended for purposes of delay, but rather to ensure the Brief is properly researched and prepared. I would therefore request a second extension of time within which to serve and file the Initial Brief of Respondent.

WHEREFORE, Respondent prays that the Court accept this Motion out of time, hold this matter in abeyance until ruling on this motion, and extend the deadline for the service and filing of the Initial Brief of Respondent and Designation of Matter in this case for thirty (30) days from the date such relief is granted; and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Assistant Attorney General



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ATTORNEYS FOR RESPONDENT

April 28, 2015

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PROOF OF SERVICE

I, Sally Ellison, certify that I have served the Motion Out of Time For Extension Of Time Within Which To Serve And File Initial Brief of Respondent on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to:

Kathrine H. Hudgins, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211

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

This 28th day of April, 2015.

Sally Ellison

SALLY ELLISON
Office of Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3727



ALAN WILSON
ATTORNEY GENERAL

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SC Court of Appeals

April 28, 2015

VIA HAND DELIVERY

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

Re: State v. Alan Dale Smith
Appellate Case Tracking No. 2013-002524

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of a Motion Out of Time For Extension Of Time Within Which To Serve And File Initial Brief of Respondent along with proof of service for filing in the above-referenced appeal.

Sincerely,

William M. Blich, Jr.
Assistant Attorney General

Enclosures

cc: Kathrine H. Hudgins, Esquire
Victim Services