

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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MAY 07 2015
SC Court of Appeals

Appeal from Charleston County
Kristi Lea Harrington, Circuit Court Judge

STATE OF SOUTH CAROLINA,

Respondent,

v.

EARNEST STEWART DAISE,

Appellant

Appellate Case No. 2013-002394

**RESPONDENT'S MOTION TO EXTEND TIME TO FILE
INITIAL BRIEF OF RESPONDENT**

The Respondent, above-named, hereby make a second motion to the Court to extend the time of filing the Initial Brief of Respondent and Designation of Matter until June 8, 2015. The Initial Brief of Respondent in the above action is due to be filed May 7, 2015. Respondent's below-signed counsel submits that extraordinary circumstances have been shown:

I.

This motion is made because the Respondent has not been able to respond within the allotted time for the following reasons:

1. Counsel for the undersigned has had a number of other commitments in State and Federal court that have precluded timely completion of the Return. In the last

month, below-signed counsel below-signed counsel was also actively preparing for a merit hearing on April 27, 2015 in the Stephen Stanko v. State PCR action related to the Georgetown convictions, but due to an intervening issue is no directly longer directly involved in the handling of the matter other than through supervision because of a medical issue. Respondent has filed a Return and 93 page memorandum of law in Stephen Beckham v. Warden for the federal habeas action on March 26, 2015; on March 25, counsel filed a Return to a Petition for a Writ of Habeas Corpus in Marcus Martin v. Warden, and on March 31, 2015 counsel filed a Return and Memorandum of Law in Randy Elders v. Warden; on April 2, 2015, counsel filed a Return before the South Carolina Supreme Court in Dontavarios Mack v. State, et al. On March 30 and April 1, 2015, below-signed counsel was lead counsel in an evidentiary hearing before Judge Cothran in the death penalty PCR action of Quincy Allen v. State. On April 8, attended as co-counsel oral arguments before the South Carolina Supreme Court in Steven Barnes v. State and State v. Manuel Marin; on April 14 argued State v. Thomas Stewart before the South Carolina Court of Appeals; on April 15, made a Rule 59 motion in Gena Beatty v. Warden in the United States District Court; on April 15 made an oral argument before the South Carolina Court of Appeals in State v. Roderquiz Cook; on April 17, 2015 made a Supplemental Return in Deborah Sanders v. State; on April 17, 2015 made a Supplemental Return in Deborah Sanders v. State, on April 29, counsel had filed a status report response in the federal habeas corpus action in Lentigus Floyd v. Warden per court order and on May 1, 2015 counsel filed a court ordered amended response and motion for summary judgment in the Kevin Mellette v. Warden federal habeas corpus action due May 4, 2015; filed a court-ordered amended return and amended motion for summary

judgment on May 4, 2015 in Ismael Cruz v. Warden federal habeas corpus action; and on May 6, 2015 filed a return and memorandum of law in the federal habeas matter of Joshua Manning v. Warden. .

2. On April 21, 2015, below-signed counsel had a heart procedure at Richland Heart Hospital and was on medical leave through April 28, 2015.
3. Respondent's below signed counsel's current calendar presently has the following matters due in the next thirty days.
 - a. *May 12 – State v. Marvin Brown - STATE APPEAL-Initial Brief of Appellant
 - b. May 14 – State v. Antonio Gordon – Final Brief of Respondent
 - c. May 18 – State v. Armando Chestnut – Initial Brief of Respondent
 - d. May 18 – Quincy Allen v. State – DP PCR – de bene esses out of state depositions (2) – Raleigh, N.C.
 - e. May 18 – Jesse Sapp v. State – DP PCR Return
 - f. May 20 – Curtis Pratt v. Warden - Federal Habeas Return
 - g. May 20 – Landis Moragne v. Warden – Federal Habeas Return
 - h. May 20 – State v. Jeffrey Chronister – Initial Brief of Respondent
 - i. *May 12 – John R. Wood – PCR Motion Hearing – Judge Mark Hayes – Death Penalty.
 - j. *May 22, 2015 – State v. Ryan Deleston - Projected Initial Brief of Respondent.
 - k. *May 26, 2015 – State v. Derekee Johnson - projected Initial Brief of Respondent.
 - l. May 26 - Samuel Stokes v. Warden – Federal Habeas Return
 - m. May 27 – State v. John James Bell –DNA Appeal – Return to Petition for Certiorari

M
B

- n. *May 27 – James Russell v. Warden – Federal Habeas Return
- o. June 1 – Terry Davis v. Warden - Federal Habeas Return.

III.

Counsel has contacted the office of opposing counsel, Chief Appellate Defender Robert M. Dudek, and he consents to this request on behalf of his client.

IV.

Wherefore Respondents respectfully request an extension of a period of thirty (30) days up to and including June 8 to complete the Initial Brief of Respondent upon a showing of good cause for the request.

Respectfully submitted,



Donald J. Zelenka
Senior Assistant Deputy Attorney General
S.C. Bar # 5758
Attorney for Respondent

May 7, 2015

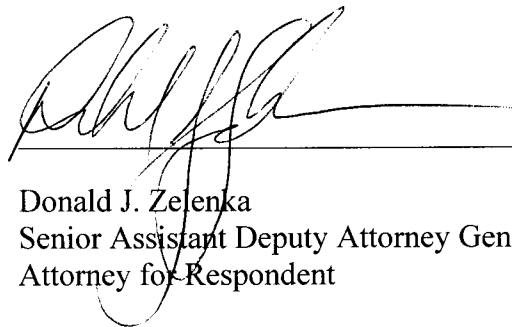
CERTIFICATE OF SERVICE

I, **Donald J. Zelenka**, hereby certify that a true copy of the Motion to extend time to file the Initial Brief of Respondent and Designation of Matter in the above referenced case has been served upon counsel for Appellant by depositing one copy of same in the United States Mail, postage prepaid, to each attorney, addressed as follows:

Robert M. Dudek, Esq.
Chief Appellate Defender
SCCID/Division of Appellate Defense
PO Box 11589
Columbia, SC 29211

A. Mattison Bogan, Esquire
Nelson Mullins Riley & Scarborough, LLP
PO Box 11070
Columbia, SC 29211

This 7th day of May, 2015.



Donald J. Zelenka
Senior Assistant Deputy Attorney General
Attorney for Respondent

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ALAN WILSON
ATTORNEY GENERAL

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May 7, 2015

Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: The State v. Earnest Stewart Daise
Appellate Case No. 2013-002394

Dear Ms. Kitchings:

Enclosed please find a Motion to Enlarge Time for filing Initial Brief of Respondent and Designation of Matter in the above-captioned matter for filing in your office. By copy of this letter, I am serving opposing counsel with same.

Sincerely,

Lonetta B. Brawley
Legal Assistant to Donald J. Zelenka
Senior Assistant Deputy Attorney General

/lbb
Enclosure

cc: A. Mattison Bogan, Esquire
Robert M. Dudek, Esquire