

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

 ORIGINAL

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Certiorari to Horry County  
Edward B. Cottingham, Circuit Court Judge  
\_\_\_\_\_

RECEIVED  
MAY 20 2015

SC Court of Appeals

THE STATE,

RESPONDENT

V.

JOSHUA GRIFFITH,

APPELLANT.

APPELLATE CASE NO.: 2014-000066

\_\_\_\_\_  
MOTION TO FILE THE PETITION FOR EXTENSION  
OF TIME TO FILE THE INITIAL BRIEF OF APPELLANT  
AND DESIGNATION OF MATTER OUT OF TIME  
\_\_\_\_\_

The undersigned counsel petitions the Court to allow late filing of the petition for a **final twenty-three day extension, until Friday, June 12, 2015**, in which to file the initial brief of appellant and designation of matter in the above-referenced case. **Counsel will file the initial brief of appellant and designation of matter in this case on or before June 12, 2015, and make it a priority.** If this Court is unwilling to grant an extension of twenty-three days, then Counsel respectfully requests that this extension be granted for any lesser time this Court will allow. In support of this motion, counsel would respectfully show the Court the following **very unusual and extraordinary circumstances justifying the present motion:**

1. The initial brief of appellant and designation of matter in this case were due to be served and filed April 3, 2015. Counsel intended to file the brief without extending the case

again but unexpected events interrupted his intention of filing the brief without a further extension. Counsel will file the brief **by June 12, 2015**.

2. This is a highly unusual murder case with a long transcript.

3. Outside qualified counsel contacted undersigned counsel seeking to write a rough draft of the initial brief with the research assistance of a third year law student from a prestigious law school. Undersigned counsel would remain responsible for the final product filed with this Court.

4. While getting periodic updates on the case it did not appear anything existed that was unusual.

5. However, it became apparent very late in the process *that undersigned counsel essentially almost disagreed with issue selection, and that the case needed to be rethought not only for purposes of direct appeal but to avoid what undersigned counsel perceived to be imminent post-conviction relief problems in the future.*

6. As undersigned counsel continued to work heavily and independently on the brief, it is now four very meritorious issues with two being arguments for directed verdicts in what *undersigned counsel strongly believes is this actual innocence murder case.*

7. Given the extreme work responsibilities of undersigned counsel as Chief Appellate Defender, including his own heavy caseload, his having to read the briefs and certiorari petitions of three new Appellate Defenders in advance of their filing, and his Appellate Project oversight responsibilities, **counsel would request a final extension until June 12, 2015.** Counsel will make every effort to file the brief and designation before that deadline if at all possible. Counsel submits this is a very unusual situation and apologizes for the need to file this request to file the brief out-of time.

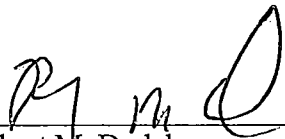
8. Counsel is currently working on the case of State v. Maurice Roberts where the brief is due with this Court on Friday, May 22, 2015. Counsel is currently working on the case of State v. William Pou where the petition for writ of certiorari to the Court of Appeals is due with the Supreme Court on May 25, 2015. Counsel is currently preparing for the oral argument in State v. Charles M. Harris to be held before the Supreme Court on June 3, 2015 where the Supreme Court yesterday granted counsel's motion to argue against precedent. Counsel prepared for and was a trainer in the Indigent Defense training (Public Defender 103) held April 27-29, 2015, in Beaufort, South Carolina. Counsel with co-counsel filed the reply to return to petition for writ of certiorari in the case of Sammie Louis Stokes v. State with the Supreme Court on Wednesday, April 22, 2015. Counsel had an oral argument in the case of State v. Darren Scott before the Supreme Court on Wednesday, April 22, 2015. Counsel filed the petition for rehearing in the case of State v. Richard Bill Niles, Jr. with the Supreme Court on Thursday, April 9, 2015. Counsel had an oral argument in the case of State v. Manual Marin before the Supreme Court on Wednesday, April 8, 2015. **Counsel has extensive administrative duties as the Chief Appellate Defender, including administrative and Appellate Project oversight, and, as stated above, training three new appellate defenders and reading all of their writings.**

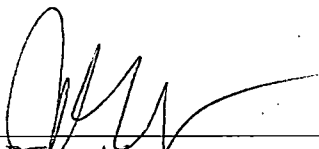
9. Counsel filed the return to petition for writ of certiorari in the case of Melvin Daniel v. State of South Carolina with the Supreme Court on Thursday, April 2, 2015. Counsel filed the initial brief of appellant and designation of matter in the case of State v. Armando K. Chestnut with this Court on April 2, 2015. Counsel filed the petition for writ of certiorari on the direct appeal in the case of State v. Albert Brandeberry with the Supreme Court on March 31, 2015. Counsel filed the United States certiorari petition in the case of Richard Moore v. State of South Carolina (3 issues) with the United States Supreme Court on March 23, 2015.

10. Undersigned counsel has explained carefully to opposing counsel the highly unusual facts that make this extension request necessary. As indicated by his consent below, counsel for the state graciously consents to or does not oppose this request.

WHEREFORE, the undersigned counsel respectfully requests that the Court grant counsel's request to relax Rule 263(b), SCACR, and allow leave in which to file the petition for a **final extension until June 12, 2015**, out of time. Again, counsel has discussed this situation with opposing counsel, Donald J. Zelenka, and he graciously does not oppose his request. Counsel respectfully requests that the time limits for filing the initial brief of appellant and designation of matter be held in abeyance pending a ruling on this motion.


Respectfully submitted,

  
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Robert M. Dudek  
Chief Appellate Defender

  
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T. Patton Adams  
Executive Director  
J. Hugh Ryan, III  
General Counsel

May 20, 2015

I DO NOT OPPOSE:

  
\_\_\_\_\_  
Donald Zelenka